

EXHIBIT 1

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

Philadelphia

County

For Prothonotary Use Only:

Docket No: JUNE 2019

007522

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

Michael Weinik, D.O.

Lead Defendant's Name:

Temple University

Are money damages requested? ☒ Yes ☐ NoDollar Amount Requested: ☐ within arbitration limits
☒ outside arbitration limits
(check one)Is this a Class Action Suit? ☐ Yes ☒ NoIs this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Bruce L. Castor, Jr.

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☒ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

- ☐ Employment Dispute:
 Discrimination
☐ Employment Dispute: Other

☐ Other:**CIVIL APPEALS**

Administrative Agencies

- ☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

☐ Zoning Board☐ Other:**MASS TORT**

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
☐ Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

ROGERS CASTOR

Bruce L. Castor, Jr.
26 E. Athens Avenue
Ardmore, PA 19003
610.649.1880
877.649.1880 (fax)

ATTORNEYS FOR PLAINTIFF

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY, PENNSYLVANIA
CIVIL ACTION

MICHAEL WEINIK, D.O.
34 Saint James Court
Philadelphia, PA 19106

Plaintiff,

v.

TEMPLE UNIVERSITY OF THE
COMMONWEALTH SYSTEM OF
HIGHER EDUCATION
300 Sullivan Hall,
1330 W. Polett Walk
Philadelphia, PA 19122,

and

TEMPLE UNIVERSITY'S LEWIS
KATZ SCHOOL OF MEDICINE
Medicine Education and
Research Building (MERB)
3500 N. Broad Street
Philadelphia, PA 19140,

and

TEMPLE UNIVERSITY HOSPITAL
3401 N. Broad Street
Philadelphia, PA 19140,

and

SHIVANI DUA
Main Line Spine
700 South Henderson Rd.
King of Prussia, PA 19406,

and

PHILLIP ACEVEDO
Northeastern Rehabilitation Associates
3400 Bath Pike Plaza, Suite 400
Bethlehem, PA 18017,

Defendants.

JUNE 2019

_____ TERM 2019

007522

No. _____

Jury Trial Demanded

COMPLAINT

Plaintiff Michael Weinik, D.O. (“Plaintiff” or “Dr. Weinik”), by and through his attorneys Rogers Castor, hereby submits the following Complaint against Defendant Temple University of the Commonwealth System of Higher Education (“Temple University”) and Temple University’s Lewis Katz School of Medicine (the “Medical School”), Temple University Hospital (the “Hospital”)(collectively, “Defendants” or “Temple.”) In support thereof, he pleads as follows:

THE PARTIES

1. Plaintiff is an individual who lives at 34 Saint James Court, Philadelphia, PA 19106.
2. Temple University is a state university, affiliated with the Commonwealth of Pennsylvania, whose principle place of business is located at 300 Sullivan Hall, 1330 W. Polett Walk, Philadelphia, PA 19122.
3. Similarly, the Medical School is part of Temple University and is located at Medicine Education and Research Building (MERB), 3500 N. Broad Street, Philadelphia, PA 19140.
4. In addition, the Hospital is also part of Temple University and is located at 3401 N. Broad Street, Philadelphia, PA 19140.
5. Accordingly, the Defendants are state-related institutions whose actions are taken under color of state law and are subject to scrutiny under 42 U.S.C. § 1983.
6. Shivani Dua is a former resident at Temple with a current business address of Main Line Spine, 700 South Henderson Rd., King of Prussia, PA 19406.
7. Phillip Avevedo is a former Temple Resident with a current business address of Northeastern Rehabilitation Associates, 3400 Bath Pike Plaza, Suite 400, Bethlehem, PA 18017

JURISDICTION AND VENUE

8. This Court possesses jurisdiction over the claims set forth herein, as well as the parties to this action, pursuant to 42 Pa. C.S. §§ 5301 & 5308.

9. Venue is proper in this Court, pursuant to Pa.R.C.P. 1006, because all of the parties reside in Philadelphia County and this is the place where the causes of action arose.

FACTUAL BACKGROUND

10. Dr. Weinik has served the entirety of his long and distinguished medical career at Temple.

11. Dr. Weinik began practicing medicine at Temple as a first-year Physical Medicine & Rehabilitation resident over 30 years ago in 1986.

12. In October of 1989, Dr. Weinik began working as an attending physician at Temple.

13. From 1991 to 2001 Dr. Weinik served as an Assistant Professor in Temple's Physical Medicine & Rehabilitation Department.

14. In 2001, Dr. Weinik was promoted to the position of Associate Professor in Temple's Physical Medicine & Rehabilitation Department.

15. In 2013, Dr. Weinik became a full clinical Professor of Physical Medicine & Rehabilitation at Temple.

16. He continued to serve in that position until Temple fired him in 2018.

17. Dr. Weinik served at Shriners Hospital in Philadelphia for 17 years treating children with various disabilities.

18. Dr. Weinik volunteered to, and treated, children with disabilities in Puerto Rico on more than 10 occasions.

19. Dr. Weinik was Team Physician for the Philadelphia Flyers for 10 years, the Philadelphia Eagles for five years, and consulted with the Philadelphia Phillies in 2008.

20. Dr. Weinik was Team Physician for the United States Rowing team for four years and accompanied the team to the World Championships in 1991 and 1993.

21. Dr. Weinik provided care for the FIFA Soccer World Championships when the championship venue was Philadelphia.

22. Dr. Weinik believes and therefore avers that no other physiatrist, now or ever, in the Philadelphia area, possesses the depth and diversity of sports medicine experience that he does.

23. Dr. Weinik is an experienced medical lecturer at the local, state national, and international levels.

24. Dr. Weinik has trained over 300 residents and an additional approximately 500 medical students from the United States and abroad.

25. Dr. Weinik is a Board member and Past President of the American Osteopathic College of Physical Medicine and Rehabilitation.

26. Dr. Weinik's ongoing employment with Temple was renewed on an annual basis by a letter agreement, reappointing him as Professor of Clinical Physical Medicine and Rehabilitation.

27. On November 18, 2017, Temple University honored Plaintiff at Lincoln Financial Field before thousands of people where the Provost of the College of Medicine recognized Dr. Weinik for his commitment to the education of medical students and residents as a professor, and his exemplary work in providing patients with exceptional clinical care.

28. The latest iteration of the contract agreement is dated March 14, 2018 ("Contract"). *A true and correct copy of the Contract is attached hereto as Exhibit "A."*

29. The Dean of the School of Medicine appointed Dr. Weinik as Interim Chair of the Department of Physical Medicine and Rehabilitation in 2015, telling Dr. Weinik that the current chair he was to replace was allowing the program to falter with standards of education and care diminishing from what the School of Medicine expected.

30. Dr. Weinik was actively engaged in the process of removing the doctor he replaced as Department Chair from that doctor's additional position as the residency program director beginning in November of 2017 and continuing into January of 2018.

31. The action Dr. Weinik intended on taking against the director of the residency program, removing him from that directorship, would have dealt a severe blow to that doctor's career.

32. Plaintiff believes and therefore avers that this doctor, Dr. Ian Matin, Director of the Residency Program, and the man Plaintiff replaced as Chair of the Department, out of spite and other malicious motives set in motion a series of events weaponizing residents he befriended, or had power over in his position as Director, to falsely accuse Dr. Weinik of sexual harassment knowing that only by destroying Dr. Weinik could Dr. Matin retain his position as Director.

33. Plaintiff believes and therefore avers that residents inspired by Dr. Matin began making false allegations against Plaintiff in the middle of January 2018, in order to pre-empt Plaintiff from removing Dr. Matin from his position as Director.

34. The attack worked, since Plaintiff was forced to defend himself against the lies instead of proceeding with the improvement of medical education at Temple by removing Dr. Matin.

35. Plaintiff believes and therefore avers that Temple officials (not professionals hired at the direction of Temple, but Temple officials themselves untrained in such matters) conducted

an inept, unprofessional, and incomplete “investigation” into false allegations made against Dr. Weinik in the nature of sexual harassment.

36. On March 11, 2018, a past resident at Temple, and a current practicing physician, told Plaintiff that Dr. Ian Martin was attempting to ruin Plaintiff’s career by enticing residents make bogus complaints of sexual harassment and other misconduct about Dr. Weinik to Temple officials.

37. On March 13, 2018, supervisors at Temple removed Plaintiff as interim Chair of the Department, leaving Plaintiff to believe this was to be his “punishment” on the unfounded allegations.

38. The following day, on March 14, 2018, Plaintiff and Temple executed a 15-month employment contract to employ Plaintiff until July 2019, but removing additional compensation previously paid to him as interim Chair. *See Exhibit “A”*.

39. Temple breached the contract of March 14, 2018, when it stopped paying Plaintiff on October 29, 2018.

40. On March 15, 2018, Temple orally advised Plaintiff he was on Administrative leave effective immediately and that he had one hour to clean out his office. Plaintiff was not given written notice of his alleged transgressions, nor notice of any right to counsel.

41. On March 16, 2018, Temple confirmed in writing that the executed contract of March 14, 2018 was received, and Temple began paying Plaintiff under that contract until October 29, 2018.

42. On July 10, 2018, a hearing was conducted pursuant to the Temple University Hospital Bylaws 8.3 and 8.4 before a hearing committee appointed following a unanimous adverse recommendation by MSEC under Bylaw 8.2 recommending expulsion of Plaintiff.

43. The hearing committee, comprised of three Medical Staff Members, was chosen

by Chair of MSEC, Vincent Cowell, M.D., and was, as stated, based on the unanimous recommendation from MSEC that Plaintiff be dismissed from the hospital.

44. In addition to choosing the hearing committee panelists, the Chair of MSEC, Dr. Cowell, acted as the “prosecutor” at the hearing on July 10, 2018 calling witnesses, giving testimony, and making arguments in an effort to demonstrate to the hearing committee that it ought to agree with the unanimous recommendation of MSEC and that of its leader and the prosecutor of the hearing, Dr. Cowell.¹

45. Plaintiff appeared at the hearing on July 10, 2018, and presented his own defense because the hearing panel, incorrectly, believed that Plaintiff could not be represented by counsel under the University by-laws, which in fact, contain no such blanket prohibition.

46. Plaintiff made procedural objections to preserve his appellate rights under Temple University Bylaw 8.5.2. These procedural objections are on the record of the proceedings and enumerated in the attached *Exhibit “B”* to show “substantial noncompliance with the procedures required by these Bylaws or applicable law resulting in demonstrable prejudice.” Undersigned Counsel, as the record will reflect, advised Plaintiff not to continue placing his procedural objections on the record, since it was patently obvious that the hearing committee did not care to consider any allegations of procedural irregularities despite being required to do so since consideration of same constitutes one of *only* two basis for appeals to the Board of Trustees such as occurred in this case — a fact known to the Plaintiff, but evidently not known to the hearing

¹ In addition to chairing the MSEC, the very body bringing the charges, *and* acting as the prosecutor *and* as witness in Plaintiff’s case, Dr. Cowell was the person responsible for the appointment of himself and Dr. Tedaldi as investigators in direct violation of Bylaw 7.3.2 requiring that three investigators be appointed to investigate complaints of misconduct. Presumably the purpose of that particular Bylaw is to reduce the possibility that one or two investigators would have a bias or prejudice against an accused since finding three biased persons to conspire is surely harder than finding one or two. Plaintiff, despite due diligence, has been unable to ascertain the identity of a third investigator appointed to his case. Temple noticed Drs. Cowell and Tedaldi as potential witnesses, never advised Plaintiff concerning the identity of a third investigator, and no third investigator testified at the hearing.

committee chair, nor to the MSEC prosecutor, Dr. Cowell.

47. Plaintiff presented extensive testimony at the hearing from approximately ten 10 witnesses under oath who testified to firsthand accounts rebutting every allegation made against Plaintiff as presented by the “prosecutor,” MSEC Chair Dr. Cowell. In contrast, Dr. Cowell on behalf of MSEC *presented no direct testimony* from live witnesses and, instead, relied entirely on hearsay statements not subject to cross examination and without giving Plaintiff the benefit of the questions investigators asked, any recordings or notes that might have been taken by MSEC investigators, nor any understanding of whether MSEC investigators interspersed their own opinions and conclusions of what the witness must have “meant,” as opposed to what was the witnesses’ said. In short, Plaintiff was unable to test the veracity of any of the so-called evidence presented by MSEC chair and prosecutor Dr. Cowell, who was tasked with “backing up” the allegations brought by the MSEC board under his leadership.

48. One of the allegations against Plaintiff brought by MSEC Chair Dr. Cowell was an allegation of improper touching supposedly alleged by a resident named Dr. Dua. Dr. Dua refused to be interviewed by Temple representatives, refused to sign a purported email or letter giving rise to the charges, and after being personally served with notice and asked to appear by Undersigned Counsel for Plaintiff, *consciously elected not to attend* the July 10, 2018 hearing to explain the substance of her allegations. In fact, not a single person alleging anything adverse to Plaintiff testified against him. NOT ONE.

49. However, among the direct eyewitness testimony presented by Plaintiff at the hearing were witnesses who were present when Temple claims Plaintiff improperly touched Dr. Dua. *Every single eyewitness presented agreed that no such improper touching occurred.* Not a single person testified at the hearing to say they had seen improper touching.

50. Dr. Weinik believes and avers where the so-called victim refused to cooperate

with MSEC investigators because she knew that she was acting as a puppet for Dr. Matin and did not want to testify under oath or give any sort of adopted statement. She even refused a confirmed actual notice invitation from Plaintiff to testify. Temple simply ignored the un-rebutted eyewitness testimony presented by Plaintiff that nothing untoward occurred at this event.

51. At the conclusion of the hearing, after written submissions from both Prosecutor Dr. Cowell, Chair of MSEC, and the person responsible for the appointment of the hearing committee members, and from Dr. Weinik, the hearing committee voted *unanimously* to overrule the MSEC recommendation to terminate Plaintiff. The hearing committee came to this conclusion after seeing and hearing the testimony, and hearing and reading the parties' arguments, things that MSEC did not do. *Plaintiff incorporates herein by reference the Notes of Testimony and exhibits from the proceeding dated July 10, 2018 as Exhibit "C."*

52. Pursuant to Temple University Hospital Bylaws 8.4.7, Plaintiff availed himself of the opportunity to provide "closing written arguments" *attached hereto as Exhibit "D."* These written arguments show that the MSEC decision to overrule the hearing committee "was not supported by substantial evidence based upon the hearing record..." (*See Bylaws 8.5.2*). In fact, it is hard to believe that the voting MSEC members even read the record, or the written arguments, as Plaintiff submits that *any* reasonably fair-minded and just person could not help but conclude that this was a sham prosecution completely lacking in procedural due process that even the MSEC-appointed hearing committee found did not warrant dismissal of Plaintiff.

53. The written recommendation of the hearing committee, attached hereto as Exhibit "E", was submitted to MSEC. MSEC, without having seen or heard any of the testimony presented at the hearing on July 10, 2018, chose to "reverse the report and recommendation of the hearing committee" pursuant to Bylaws 8.4.9. without even inviting plaintiff to appear and

answer questions. *See Exhibit "F."*

54. MSEC chair Dr. Cowell, stated that he did not participate in the decision to overrule the hearing committee in Plaintiff's case apparently because the thoroughness of *his* conducting of the investigation and *his* prosecution was at issue before MSEC. Yet, Dr. Cowell actually *signed the letter* dated August 27, 2018 stating MSEC's final decision (like a decision from a court made up of multiple members signed by the judge assigned to the case) to overturn the hearing panel. An analogy might be a judge affixing his name alone to an opinion of the full court on the very case on which that judge recused himself.

55. So, Dr. Cowell appointed himself lead investigator, chaired the MSEC committee that unanimously brought the charges and recommended expulsion, appointed the members of the hearing committee, appointed himself as the prosecutor, acted as Temple's chief witness against Plaintiff, wrote Temple's post-hearing argument (stating, among other nonsensical things, that Plaintiff was required to move into evidence a Bylaw before the hearing panel could consider whether the Bylaw was violated. A Bylaw is simply a rule that the litigants and the hearing panel must abide by.)

56. Plaintiff suggests that Dr. Cowell's "recusal" rendered him powerless to take *any* action on the matter which caused the recusal. Such actions, like signing the decision letter, should have been done by an independent person, presumably a MSEC vice chair, or such other member of MSEC the members might themselves select to replace Dr. Cowell in this one instance.

57. Plaintiff submits that Dr. Cowell's signing of the letter dated August 27, 2018 (*i.e.* MSEC's decision overruling the hearing committee) after he claimed to have ceased participating in the deciding of the case, rendered the decision letter, itself, void on its face. As such, MSEC missed the filing deadline for acting on the hearing committee's recommendation

by not filing a written determination within the time permitted under the Bylaws attested to by a MSEC official who had not determined he/she could not participate in the decision. Expressed differently, a prosecutor or judge who has determined he or she cannot be fair and objective, and recuses himself from participating in the decision, *cannot participate at all*, and most certainly cannot be the *only* person to sign a ruling on the very issue on which he/she states that he/she cannot participate pursuant to a perceived (or actual) conflict of interest.

58. Dr. Cowell relied entirely on hearsay evidence produced from a less-than-thorough investigation completely rebutted by direct, non-hearsay testimony produced by Plaintiff.

59. As is made clear in the record of the hearing on July 10, 2018, Plaintiff had other witnesses on “stand-by” available to provide additional substantive testimony that the hearing committee deemed not necessary to present as the hearing had already gone on for five (5) hours. Nevertheless, MSEC opted to “reverse the report and recommendation” of the hearing committee even knowing the hearing committee had “heard enough.” Plaintiff suggests that the record plainly supports the notion the hearing committee was satisfied with the strength of Plaintiff’s evidence to the point where it discouraged Plaintiff from presenting additional evidence, and that MSEC blatantly ignored this finding by the hearing committee.

60. Plaintiff avers that not only was he not afforded the “...procedures required by [the] Bylaws resulting in demonstrable prejudice...” (*Bylaws 8.5.2*), he also was denied basic procedural due process when the chair of the accusing body, MSEC, selected the hearing panel, acted as the “prosecutor,” and, upon failing to obtain the desired result from the hearing panel, that same body, MSEC, under the prosecutor’s general leadership, reversed the recommendation of the hearing committee. *No member of MSEC voting on the committee recommendation saw or heard the live testimony to judge for him or herself the credibility of the witnesses testifying on*

July 10, 2018, before MSEC decided to reverse. Standing alone, Plaintiff avers these facts demonstrate the inherent unfairness of the procedure afforded him in this case.

61. Plaintiff believes and therefore avers that the entire procedure used by Temple to conduct its so-called investigation pursuant to bylaw “safeguards” was woefully ill-suited to provide even the most rudimentary due process to Plaintiff. Rather Temple’s procedures encourage merely a veneer of due process to disguise a blatantly flawed system designed to create the pre-text of procedural due process, while in reality is laughably inadequate to produce any semblance of the concept.

COUNT I
VIOLATION OF DUE PROCESS OF LAW
(AGAINST TEMPLE DEFENDANTS ONLY)

62. Plaintiff alleges Defendants violated his right to procedural due process pursuant to 42 U.S.C. § 1983 and applicable to the Commonwealth and its agents through the 14th Amendment, and will show the following elements in support thereof:

- a. Defendants are “state actors” within in the meaning of 42 U.S.C § 1983;
- b. Defendants engaged in abuse of power, while acting as state actors, intentionally, knowingly, recklessly, and/or with gross negligence beyond ordinary negligence;
- c. Defendants’ conduct interfered with Plaintiff’s protected liberty interest of property by failing to provide adequate procedural safeguards;
- d. Plaintiff has suffered damages as a direct result of Defendants’ failure to provide Plaintiff with meaningful procedural due process of law.

63. Plaintiff hereby incorporates by reference all paragraphs in this Complaint as though fully set forth at length.

64. Defendants violated the Due Process Clause of the Fourteenth Amendment of the

United States Constitution, and such provisions of the Pennsylvania Constitution providing similar protections, by condoning a retaliatory attack against Plaintiff by a disgruntled employee, orchestrating a pre-textual investigation and a sham disciplinary proceeding to terminate Dr. Weinik from Temple, further ensuring that he could never practice medicine again anywhere at the same level.

65. Dr. Weinik possessed both a property interest and a liberty interest under the U.S. Constitution in his contractual employment with Temple and in his continued ability to practice medicine.

66. Because Temple University, the Medical School, and the Hospital are affiliated with the Commonwealth of Pennsylvania, the Defendants acted as agents of the state and under the color of law in taking their actions against Dr. Weinik.

67. As described in exacting detail above, the pre-textual investigation and sham disciplinary proceeding deprived Dr. Weinik of almost all of the traditional procedural due process protections afforded under the U.S. Constitution, including the ability to cross-examine one's accusers under oath, to question available material witnesses under oath, to have meaningful use of counsel, and to present exculpatory evidence before an impartial and unbiased tribunal.

68. Temple's investigators failed to identify or interview material witnesses, who would have provided exculpatory evidence and testimony disproving the false accusations of Dr. Weinik's accusers.

69. Temple's investigators ignored and knowingly failed to provide exculpatory evidence to Dr. Weinik.

70. Temple failed to adhere to its own Bylaws and procedures by, *inter alia*, allowing the unsworn testimony of Dr. Weinik's accusers to be presented to the tribunal in the form of

hearsay.

71. Temple failed to timely inform Dr. Weinik that he had the right to be represented by legal counsel at all stages of the investigation and the proceedings.

72. Temple failed to timely provide Dr. Weinik with a copy of the Bylaws and procedures that governed the investigation and proceedings.

73. Indeed, the investigation and subsequent proceeding was so biased and utterly devoid of traditional procedural due process protections as to not qualify as a genuine opportunity for Dr. Weinik to be heard or properly defend himself and his professional reputation from his accusers' false accusations.

74. As a proximate result of Temple's actions, Dr. Weinik's professional reputation has been ruined and he has lost the ability to practice medicine.

75. Temple reported the pre-textual reasons for Dr. Weinik's dismissal from his positions to a national practitioner data bank falsely claiming he was fired for bylaw violations, disruptive conduct and sexual misconduct, despite there being no direct evidence produced against Dr. Weinik and his main accuser refusing to sign a statement or appear to give evidence despite confirmed personal service for her to attend Dr. Weinik's hearing.

76. The inclusion of Dr. Weinik's name on this national data bank has made it impossible for him to secure a position in his field, a field where he is objectively considered at the very top of his profession causing him enormous anxiety and depression that he may never be able to again pursue his life's work based on the unsubstantiated lies of others with a motive to want to hurt Dr. Weinik's career.

77. Temple initiated a state licensing board complaint that resulted in an extensive investigation before the board refused to take *any* action against Dr. Weinik.

78. Plaintiff has incurred extensive legal fees that have left him at a great

disadvantage in paying for this litigation.

79. Plaintiff believes and therefore avers that a goal by Defendants in creating its pre-textual disciplinary process designed to appear as due process when it is anything but, is to bankrupt plaintiffs who go through the process like Dr. Weinik so that they are financially damaged from paying lawyers that they cannot afford protracted litigation going forward.

80. Plaintiff believes and therefore avers that the Temple procedures he was forced to contend with were enacted by Temple to discourage their use by making them so difficult to navigate that only counsel could advise Plaintiff how to navigate them, costing Plaintiff extensive funds, and during which no actual elements of procedural due process occurred.

81. Plaintiff believes and therefore avers that no other physician has ever gone through the procedure Defendants required of him.

WHEREFORE, Plaintiff requests that this Court enter judgment in his favor and against Defendants, by Ordering Defendants to reinstate Plaintiff to his former positions and provide him with a fair investigation and hearing, which comports with the procedural due process safeguards of the U.S. Constitution. In addition, Plaintiff requests that the Court Order Defendants to pay compensatory damages of in excessive of \$3,000,000 and punitive damages for egregious conduct, and all of Plaintiff's costs and attorneys' fees that he has incurred and will incur,, including treble damages, and Order such other relief as this Court shall deem just and proper, including directing that Plaintiff's name be stricken from the National Practitioner's Databank list of persons dismissed for the type of violations falsely alleged by Defendants against Plaintiff.

COUNT II
BREACH OF CONTRACT
(AGAINST TEMPLE DEFENDANTS ONLY)

82. In order to prevail in a Breach of Contract Claim, Plaintiff must establish:

- a. The existence of a contract, including its essential terms;

- b. A breach by the Defendant (s) of a duty imposed by the contract; and
- c. Damages were sustained by the Plaintiff on account of the breach of Defendants' duty under the contract.

83. Plaintiff hereby incorporates by reference all paragraphs of this Complaint as though fully set forth at length.

84. As described above, Dr. Weinik had a 15 month-long Contract with Temple to provide medical services to Temple and "clinical and didactic instruction" to its medical and physician assistant students, its residents, and fellows. *See Ex. "A"*.

85. In exchange, Dr. Weinik was to receive a minimum annual compensation of \$270,999.00, as well as additional incentive compensation and fringe benefits.

86. Dr. Weinik entered into this Contract with Temple on March 14, 2018.

87. Temple breached the Contract by improperly and prematurely terminating Dr. Weinik's employment.

88. In addition, Temple further breached the Contract's implied duty of good faith and fair dealing by failing to properly follow its own Bylaws and policies, which were incorporated into the terms of agreement and also governed Dr. Weinik's rights under the Contract.

89. Specifically, as described in detail above, Temple used the pre-textual investigation and sham disciplinary proceedings as a means for improperly and prematurely terminating Dr. Weinik's Contract in bad faith.

90. As a proximate result of Temple's improper and premature termination of its Contract with him, Dr. Weinik has sustained in excess of \$210,000 in lost earnings, earning potential, and benefits. Or at the very least approximately 9 months' compensation under the contract at Exhibit "A."

WHEREFORE, Plaintiff requests that this Court enter judgment in his favor and against Defendants, by Ordering Defendants to pay Plaintiff his compensatory and consequential damages, including all costs, and such other relief as this Court shall deem just and proper.

COUNT III
LIBEL
(AGAINST ALL DEFENDANTS)

Libel is proven by the Plaintiff upon a showing that the following can be established:

- a) The publication of;
- b) a statement;
- c) about an individual;
- d) that is defamatory in character; and
- e) the recipient of the publication understands the publication's meaning.

91. Defendants committed the tort of Libel against Plaintiff.

92. Plaintiff incorporates all paragraphs in this complaint by reference as if each was enumerated here.

93. Defendants falsely accused Plaintiff of engaging in sexual harassment.

94. Defendants made written false statements accusing Plaintiff of criminal sexual harassment to, *inter alia*, employees of Temple, and to the Temple University Hospital Board of Directors.

95. Defendants' false statements did cause damages to Plaintiff.

96. Defendants' false statements have *per se* damaged Plaintiff's reputation, are the proximate cause of Plaintiff losing his job and having difficulty finding another job.

97. Defendants' false statements have *per se* damaged Plaintiff's reputation, are the proximate cause Plaintiff has been shunned in the community in which he formerly freely moved about in educational and professional circles related to medicine.

98. Defendants' false statements have *per se* damaged Plaintiff's reputation, are the proximate cause of Plaintiff's losing the confidence of those reading the statements as these people are professionals in his field with influence over his career advancement both in the practice of medicine to help people recover from severe illnesses, and the ability to earn money from working in a highly specialized field in which he has spent many years training and developing those special skills.

99. Defendants' false statements have *per se* damaged Plaintiff's reputation and are the proximate cause of Plaintiff's severe professional and monetary damages.

WHEREFORE, Plaintiff demands in excess of \$50,000 from each defendant for the tort of libel, and any and all such further relief the Court considers warranted.

COUNT IV
SLANDER
(AGAINST ALL DEFENDANTS)

Slander can be proven by the Plaintiff upon a showing that the following can be established:

- a) The defamatory nature of the alleged communication(s);
- b) the publication of the communication(s) was by the defendant(s);
- c) the application of the communication to the plaintiff;
- d) the recipient's understanding of the communication's meaning;
- e) the recipient's understanding of the communication is intended to be applied to the plaintiff;
- f) special damages resulting to the plaintiff; and
- g) abuse of a conditionally privileged occasion.

100. Defendants committed the tort of slander against Plaintiff by making false and defamatory verbal statements damaging Plaintiff's reputation.

101. Plaintiff incorporates all paragraphs in this complaint by reference as if each was enumerated here.

102. Defendants falsely accused Plaintiff of engaging in sexual harassment.

103. Defendants made statements to, *inter alia*, personnel of Temple University and the Temple University Hospital Board of Directors all of whom are experienced in the severity of such complaints in the context of the medical profession.

104. Defendants' statements led to conduct an investigation specifically against Plaintiff demonstrating the recipients to the statements understood precisely what Defendants wanted to communicate in Defendants' effort to ruin Plaintiff's career in retaliation for Plaintiff attempting to remove Dr. Matin from his position as Director of the Resident Program.

105. Defendants' statements caused damage to Plaintiff's reputation *per se* since the false accusations of sexual harassment is so vile that the law presumes damage especially since some of the false allegations against Plaintiff could be construed by law enforcement as criminal in nature.

106. Defendants' statements caused special damages to Plaintiff in that the practice of medicine with patients is heavily dependent on the doctor/patient relationship and the trusting bond necessary, that Plaintiff's loss of his positions, his standing among his peers, his sources of referrals, his professional reputation in his field nationally, to name a few, has brought incalculable harm down upon Plaintiff.

107. Defendants' have caused special damage further to Plaintiff by forcing him to undergo a humiliating investigation when Plaintiff continued to pursue the removal for Dr. Maitin from his position.

108. Defendants have done special damage to society since their demonstrably false accusations against Plaintiff not only cast doubt upon the Plaintiff and the medical profession, they cast doubt upon the veracity of woman who truly are victims of sexual assault.

WHEREFORE, Plaintiff demands damages in excess of \$50,000 from each Defendant for the tort of slander and any and all such further damages as the Court may deem warranted.

COUNT V
INJURIOUS FALSEHOOD
(AGAINST ALL DEFENDANTS)

Injurious is proven by Plaintiff upon a showing that the following can be established:

- a) The statement is false;
- b) the publisher either intends the publication to cause pecuniary loss or reasonably should recognize that publication will result in pecuniary loss;
- c) pecuniary loss does, in fact occur; and
- d) the publisher either knows that the statement is false or acts in reckless disregard its truth or falsity.

109. Plaintiff is a victim of the tort of Injurious Falsehood caused by Defendants.

110. Plaintiff incorporates all paragraphs in this complaint by reference as if each was enumerated here.

111. Defendants made statements that Plaintiff engaged in sexual harassment.

112. The false accusation was investigated by Temple personnel.

113. Plaintiff lost his job as a direct result of the false accusations by Defendants.

114. Plaintiff cannot find further employment because the actions of Defendants caused his name to be placed on a nation registry.

115. Plaintiff denies the accusation of sexual harassment made in statements by Defendants in the strongest possible terms.

116. Defendants' actions sought that financial harm would befall Plaintiff by making these false statements either through Plaintiff through Plaintiff losing his career by being fired from his medical positions and unable to find future employment in his medical specialty.

117. Plaintiff suffered pecuniary loss including, but not limited to the costs to defend himself and the loss of his position with Temple University Hospital and curtailed economic opportunities at other medical venues as word of the false allegations spread.

118. Defendants Shivani Dua and Phillip Acevedo told their employer, Defendant Temple, Plaintiff engaged in sexual harassment knowing that was false or in reckless disregard for the truth or falsity of said statement.

WHEREFORE, Plaintiff demands damages in excess of \$50,000 from each Defendant for the tort of Injurious Falsehood, and any and all such further relief the Court deems warranted.

A TRIAL BY JURY IS DEMANDED.

Date: June 28, 2019


Respectfully Submitted,

/s/ Bruce L. Castor, Jr.
Bruce L. Castor, Jr. (ID. No. 46370)
ROGERS CASTOR
26 East Athens Ave.
Ardmore, PA 19003
610.649.1800
877.649.1880 (Fax)
Bruce@RogersCastor.com

VERIFICATION

The undersigned, being duly authorized, verifies that he has read the Complaint filed in this matter and its factual allegations are true and correct to the best of the signer's knowledge, information and belief. This Verification is made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

By:


Michael Weinik, D.O. 06/27/19



Lewis Katz School of Medicine

Larry R. Kaiser, M.D., Dean
Senior Executive V.P., Health Affairs
President and CEO,
Temple University Health System

3500 N Broad Street
Medical Education Research Building
Suite 1141
Philadelphia, PA 19140

phone: 215-707-8773
fax: 215-707-8431
E-mail: larry.kaiser@tuhs.temple.edu
web: www.temple.edu/medicine

March 14, 2018

Michael Weinik, DO
34 Saint James Court
Philadelphia, PA 19106-3702
Emailed to: michael.weinik@temple.edu

Dear Dr. Weinik:

I write to offer you renewal of an appointment as Professor of Clinical Physical Medicine & Rehabilitation in the Department of Physical Medicine & Rehabilitation in the School of Medicine. This remains a non tenure-track Dean's Appointment as a Clinician Educator on the Clinician Educator Track that will begin on April 1, 2018, and, unless renewed by a separate written agreement, will automatically end on June 30, 2019. **This offer carries no presumption of reappointment, and expressly provides terminal year notice as required by University policies and procedures, including Section III of the Temple University Faculty Handbook and Section 1.D. of the Temple University School of Medicine (TUSM) Policy on Appointment as a Clinician Educator on the Clinician Educator Track with regard to non-renewal of contracts for untenured faculty. This letter supersedes my letter to you dated June 30, 2017 for the portion of the term April 1, 2018 to June 30, 2018.**

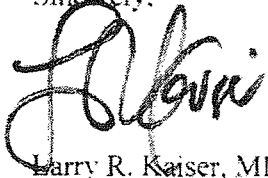
By accepting this appointment, you agree to teach, conduct research, engage in scholarship or creative work, and/or provide clinical and other service, at any location on behalf of the University as specified or as modified by me or my designee from time to time. You also agree to the "Terms and Conditions". This letter and this attachment comprise the entire terms and conditions of your faculty appointment and may not be modified or altered by any oral or written statement or representation unless such statement or representation is confirmed in writing under the President's, Provost's or Dean's signature.

If, as I hope, you find this offer to be satisfactory as presented, please indicate your acceptance by signing and dating the acknowledgement on the last page and returning a copy of the entire letter by fax or email to the Office of Faculty Affairs at LKSOMFaculty@temple.edu or via fax number 215-707-4659. This offer will remain open for 20 days from the date of this letter. If we have not received your signed acceptance by that date, we will assume that you have not accepted this offer. If you require any additional time to consider this offer, please contact Mr. Bryant Tabb, Director of the Office of Faculty Affairs either by email btabb@temple.edu or phone 215-707-0163; Mr. Tabb will confirm any extension in writing.

Michael Weinik, DO
March 14, 2018
Page 2 of 8

I look forward to your continued contributions to the academic and clinical enterprises of the School of Medicine.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Kaiser", written over a horizontal line.

Larry R. Kaiser, MD

cc: Kevin Delaney, Vice Provost for Faculty Affairs
Sharon Boyle, Associate Vice President, Human Resources
Joseph Rudy, Administrator
Ann Untalan, Assistant Dean, Finance
Paula Davis West, Assistant Dean, Financial Services

Michael Weinik, DO
March 14, 2018
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Terms and Conditions

Responsibilities

Your responsibilities for the term of this reappointment continue to include, but are not limited to, providing clinical services and clinical and didactic instruction to medical and physician assistant students, residents, and fellows as assigned, which may be modified by or other duties assigned by the Chair/Dean at his discretion in consultation with you.

Your annual clinical productivity measures (ASA units, work RVUs, and outpatient encounters) are selected based upon the Medical Group Management Association Physician Compensation and Production Survey (65th percentile, calculated from the average of the 3 most recent annual surveys) for your specialty/subspecialty adjusted for your percent of clinical effort.

Fiscal Year Compensation

Your annual (minimum) fiscal year compensation for the term of this appointment will be as follows:

'A' component	\$193,311
'B' component	77,688
Total	\$270,999

All benefits that are salary-based, including retirement plan contributions, will be based on the 'A' component. The sum of your A and B components will not be less than \$270,999 for the term of this appointment. Portions of your salary derived from outside funding, if any, will serve as an offset to your salary and will be reflected in a redistribution of your effort. The fiscal year compensation reflected above will be prorated, as necessary, to reflect your start date and is payable in accordance with Temple University payroll practices and subject to state and federal income tax withholding, employment taxes and such other deductions that may be required by law.

Incentive Compensation

You may also be eligible for incentive compensation. Eligibility for incentive compensation of any kind requires that you be actively employed by Temple University in the position indicated in this Appointment letter on the date of distribution.

Compensation Limit

In no event will your total annual compensation from Temple University (regardless of the type of compensation) exceed 125% of the then-current 75th percentile as per the Northeast Region Tables of the Association of American Medical Colleges (AAMC) Faculty Salary Survey or 125% of the then-current 90th percentile of the Physician Compensation and Production Survey of the Medical Group Management Association (MGMA) or another published survey as designated by the Lewis Katz School of Medicine.

Fringe Benefits

As a Temple University full-time faculty member, you are entitled to elect certain fringe benefits. A complete explanation of the University's Faculty Benefit Plan is available online at <http://www.temple.edu/hr/faculty/benefits.htm>. You must completely satisfy all applicable

Michael Weinik, DO
March 14, 2018
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eligibility requirements, make all required co-payments, and complete all applicable enrollment forms in order to be eligible for a particular Temple University benefit.

Insurance Credentialing

You hereby agree to accept assignment for payment under the Medicare and Pennsylvania Medical Assistance programs. This appointment is also contingent upon Temple University Physicians being able to qualify you, on an ongoing basis, as a participating provider with the federal Medicare program, the Pennsylvania Medicaid program, and all managed care or prepaid health care programs designated by Temple University from time to time.

To the extent permitted by third party payment programs, Temple University or its designee shall bill and collect for all services performed by you. You shall take all steps reasonably requested by Temple University to assist in the billing and collection of any monies due to Temple University for your professional services. In the event regulatory and/or third party payment programs require any or all services you perform to be billed or collected in your name or on behalf of you, you hereby designate, authorize and appoint Temple University as your agent, and grant Temple University a power of attorney to bill or collect on your behalf for all the services you perform and to obtain provider number(s) on your behalf to facilitate such billing or collection.

You are bound by the Compliance Program of Temple University Health System, which is available on-line at http://www.templehealth.org/tuhs_vendor_policies/, as well as all billing policies and/or procedures as established by the Dean or the Dean's designee and agree to bill all charges for such services through the office established for that purpose. The schedule of charges for all services performed by you as an employee of Temple University shall be determined from time to time by Temple University.

Professional Services Fees

For so long as you are a member of the faculty of Temple University, all fees received by you for professional services rendered as an employee are the property of Temple University. This does not include honoraria (e.g. for lectures, speeches and the presentation of papers), awards and other similar income that are not related to the rendering of professional services, nor does it include clinical consulting fees for expert testimony. However, clinical expert testimony may only be offered with the written approval of TUHS Office of Counsel to assure there are no conflicts. Such consulting may not interfere with regularly-scheduled University professional time or make use of University resources. In the event of any dispute over whether fees are Temple University's property pursuant to this appointment, the Dean shall have complete discretion in determining whether such fees obtained by you will be considered property of Temple University. Any such decision by the Dean is final and will not be subject to review in any forum.

You may not render professional services to patients at locations other than Temple University Health System facilities or Temple University without the written approval of the Dean, subject to the terms set forth above, and such other terms and conditions as he/she may require.

Michael Weinik, DO
March 14, 2018
Page 5 of 8

Professional Liability Insurance

During your employment with Temple University, Temple University shall, on your behalf (i) procure and maintain, at its sole cost and expense, medical professional liability insurance in form and amounts not less than the amounts required by the laws of the Commonwealth of Pennsylvania; and (ii) be solely responsible for the payment of any and all requisite surcharges, assessments, and any and all other payments to the Pennsylvania Medical Care Availability and Reduction of Error Fund as required by the laws of Pennsylvania. The above insurance or surcharges paid, secured or maintained by Temple University will only cover your professional activities provided under this Appointment. Any insurance or surcharges for professional activities provided outside the scope of your employment, whether provided before, during or after your employment, is your sole responsibility and includes, without limitation, moonlighting, with or without Temple University's permission, and retrospective surcharges by the MCARE Fund relating to the time prior to your employment by Temple University. In the event that your insurance prior to being employed by Temple University is claims made, you shall secure, or have secured on your behalf, tail coverage for acts or omissions prior to the period that you became employed by Temple University. Moreover, upon the termination of your employment with Temple University, if the insurance provided by Temple University for your services provided as its employee is claims made, Temple University shall, on your behalf, procure and maintain, at its sole cost and expense, medical professional tail coverage in form and amounts not less than the amounts required by the laws of the Commonwealth of Pennsylvania for acts or omissions occurring during the period of time that you were employed by Temple University.

In consideration of Temple University purchasing said insurance, you assign any and all of your rights under said insurance to Temple University including, but not limited to, the authority to control, defend and settle all claims and lawsuits that arise due to your employment by Temple University. You further agree to timely cooperate and comply with any and all requests enabling Temple University to exercise these assigned rights. This assignment shall survive the termination of your employment with Temple University.

Conditions of Employment

Your appointment to the faculty and continued employment by LKSOM is contingent upon: (a) proof of unrestricted licensure to practice medicine in the Commonwealth of Pennsylvania and in any other state in which you are required to provide clinical services as an employee of Temple University; (b) appointment to the medical staff of Temple University Hospital and such other hospitals as the Dean may designate; (c) proof of registration with the federal Drug Enforcement Administration to prescribe controlled substances without limitation; (d) proof of eligibility for participation in the Medicare and Pennsylvania Medicaid programs; (e) proof of certification or eligibility for certification by the American Board of Physical Medicine and Rehabilitation or other similar certifying board acceptable to the Dean; (f) Temple University's satisfaction with your malpractice claims record; (g) Temple University's ability to qualify you as a participating provider with all governmental and other programs and insurers with which the University participates; and (h) passing a background investigation, which may include employment reference checks, a PA Child Abuse History Clearance, criminal/civil background review, a credit check and/or any other background investigation deemed necessary by Temple University.

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March 14, 2018
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Representations and Warranties

By accepting this offer of appointment, you represent and warrant that:

- You have never been, and are not now, disciplined, suspended, disbarred, debarred, sanctioned or excluded by or from any federal, state, licensing, accrediting or certifying agency, program or professional association, and that you agree to immediately disclose to the Dean if, at any time, you are threatened with discipline, suspension, disbarment, debarment or other sanction as described above.
- You have never been convicted of any felonies or of any unprofessional or immoral conduct that may injure your reputation or that of Temple University that have not been disclosed in writing to the Dean and to the Office of the Provost. You agree to disclose immediately to the Dean and to the Office of the Provost, if at any time you are investigated by law enforcement authorities or subject to criminal prosecution by federal or state authorities.
- You have, at all times during your practice of medicine, maintained professional liability insurance in such amounts as have been required by law, and no professional liability insurance carrier has ever canceled, denied or refused to renew your professional liability insurance coverage or imposed a surcharge with respect to such coverage.
- You are not now, and have never been at any time during your practice of medicine, convicted of a criminal offense related to health care nor are there any such actions pending or to your knowledge threatened.
- This Appointment Letter does not violate the terms or provisions of any other agreement to which you are a party or which impacts upon your practice of medicine, including but not limited to any restrictive covenants or other non-competition agreements.

Termination Related to Conditions of Employment, Representations and Warranties and Other Terms

You understand and agree that if you are unable to practice medicine or Temple University is unable to submit billing statements to governmental or other third party payers for your professional services as a result of your failure to maintain any Condition of Employment or Representation and Warranty contained in this Appointment, or that you otherwise fail to perform any duty of employment contained in this Appointment such that Temple University is unable to submit billing statements to governmental or other third party payers for your professional services, then Temple University shall have the right to terminate this Appointment immediately, without advance notice and without any further obligation to you. Termination pursuant to this provision shall not be considered termination for "adequate cause" as referenced in the *Temple University Faculty Handbook* and the *Lewis Katz School of Medicine Policy on Appointment as a Clinician Educator on the Clinician Educator Track* and neither the Faculty Handbook nor the Lewis Katz School of Medicine Policy shall be applicable to such termination.

Notice of Resignation

Should you resign from the faculty prior to the expiration of your appointment, you will owe to the University an amount equal to 3/12 of your annual compensation as liquidated damages

Michael Weinik, DO
March 14, 2018
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and not as a penalty, unless you provide a minimum of three months' prior written notice. Further, you authorize Temple University to offset from any amounts it may owe to you pursuant to your employment, in satisfaction, or partial satisfaction as the case may be, the amount you are obligated to pay hereunder to the full extent permitted by law. However, early resignation remains a breach of the term of your appointment. Accordingly, this paragraph is not an exclusive remedy nor a waiver of any of the University's rights or remedies relative to any such resignation, all of which Temple University expressly preserves.

Employment Policies

As a faculty member at Temple University, the terms and conditions of your employment are governed by this Appointment Letter, as well as Temple University's applicable policies and procedures, including any applicable collective bargaining agreement, official School or College policies that are available on-line at http://www.temple.edu/medicine/faculty/policies_procedures.html, the Employee Manual and Board-approved policies and procedures contained in the Temple University Faculty Handbook, that are also available on-line at <http://policies.temple.edu>, all as may be modified by Temple University and the School from time to time. School policies include, but are not limited to, its conflict of interest policy at http://www.temple.edu/medicine/faculty/documents/conflict_policy.pdf. You will also be required to provide a financial disclosure at least annually.

Inventions and Patents Policy

As a faculty member at Temple University, you agree to be bound and abide by the terms of Temple University's Inventions and Patents Policy that is available on-line at <http://policies.temple.edu>. By signing the Appointment Letter you represent that you have reviewed Temple University's Inventions and Patents Policy and agree to be bound by this policy, as may be modified by Temple University from time to time. In addition, you hereby assign to Temple University any and all intellectual property rights in any inventions created by you during the period of your employment and emerging from any university research or development activity, or from use of any university facilities or equipment.

Compliance with Laws, Regulations, Policies and Procedures

In the performance of their functions, faculty members have an obligation to avoid ethical, legal, financial and other conflicts of interest to ensure that their actions and outside activities do not conflict with their primary employment responsibilities at the institution. Faculty members are also expected to understand and be in compliance with applicable laws and regulations, including governmental or other sponsoring agency regulations related to time and effort reporting and sponsored program expenditures and billing, University and employment policies and regulations, and NCAA regulations for areas and departments in which their essential functions cause them to interact with student athletes.

Non Solicitation

During the period that you are employed by Temple University and for a period of one (1) year thereafter, you will not, except with Temple University's express prior written consent, directly or indirectly, in any capacity, for the benefit of any person, entity or competing health care system, solicit any person who is, or during such period becomes, a patient, supplier, employee, agent or representative of Temple University in any manner which interferes or might interfere with such person's relationship with Temple University, or make any effort to


Michael Weinik, DO
March 14, 2018
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obtain such person as a patient, supplier, employee, agent, or representative of any medical practice which provides professional medical services in the specialty of Physical & Rehabilitation Medicine.

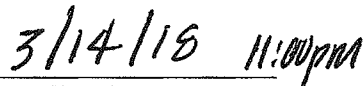
You expressly acknowledge that these covenants are a material part of the consideration bargained for by Temple University and, without your agreement to be bound by these covenants, Temple University would not have agreed to enter into this agreement.

The terms and conditions of this agreement shall remain in full force and effect for so long as you remain an employee of the University unless replaced by a fully executed subsequent agreement. However, compensation adjustments may be made, effective following the expiring appointment period, in accordance with School of Medicine practice and procedure.

I have reviewed and understand the terms and conditions of employment as outlined above. By signing this Appointment Letter I agree to all of those terms including, but not limited to, the requirement of assigning certain patent and other rights to Temple University.



(Signature)



(Date)

**Dr. Weinik's Procedural Objections Demonstrating
noncompliance with the Procedures Required by [the]
Bylaws or Applicable Law Resulting in Demonstrable
Prejudice to Him per 8.5.2 (a)**

“Temple University Administrative Policies and Procedures” were not followed. Among the deficiencies:

1. Applicant was never notified that he had an opportunity to go the Medical Staff Office to review the complaint against him.
2. Applicant was never told that he could seek an advocate to assist him in this process. The Policies and Procedures indicate that notifications #1 and #2 should have been made BEFORE any investigation commenced. Applicant never received them. Instead, when he did meet with the investigators, he was shown handwritten excerpts

from an email containing allegations against him and was not allowed to know the identity of his accuser.

3. The timeline produced by the investigators clearly shows that the investigation was well under way by the time they met with Applicant also in violation of the University's Policies and Procedures.

4. The timeline demonstrates that at the time they finally met with Applicant, the investigators had already meet with Dr. Acevedo, yet, his allegations were never disclosed to Applicant until two weeks before the July 10, 2018 hearing.

5. The Bylaws of the Professional Medical Staff were also not followed in this process. Here are a few examples:

- In violation of Section 7.3.4, Applicant was never given the required Special Notice of any recommendation or action by MSEC following their investigation. Instead,

Applicant was escorted from the building with no notice and no idea of what had transpired to cause his removal in such an embarrassing and undignified way. It wasn't until Applicant's attorneys contacted Temple that Special Notice was actually given.

- In violation of Section 7.4.3, Applicant was never given an opportunity to address MSEC following his being escorted out of the hospital.
- Applicant does not know whether MSEC met to consider his removal from privileges, as is required by Section 7.4.3, nevertheless, Applicant never received the required special notice of MSEC's recommendation pursuant to Section 7.4.4.
- Finally, Section 8.3.1 requires that the CEO provide Applicant with "clear and concise" reasons for the adverse action taken against him. Prior to the hearing on July 10, 2018, no one has provided Applicant with

this information. In fact, Applicant learned for the first time 15 days before the hearing much of the substance about the allegations being leveled against him. The only information Applicant had been given throughout the entire process was to be able to read excerpts from an email containing allegations.

6. These deficiencies in process and procedure violate the clear rules by which accusations and investigations are to be conducted, and the “just culture” that is supposed to exist at Temple. Moreover, MSEC impaired Applicant’s right to, among other things, due process. The deficiencies also led to a result which should not have occurred had the rules been followed.

7. Applicant objected to these deficiencies, and others, at the hearing on July 10, 2018 and reserved his right to raise these procedural deficiencies in any future appeal despite

knowing that his evidence would completely overwhelm the unreliable hearsay MSEC would offer.

8. Applicant request permission to have hearing conducted by counsel per 8.4.1 – and was never given a chance to be heard on that issue prior to the decision being made that lawyers could not ask questions and make arguments. Per the Bylaw provision, the *default* is attorneys *do* participate, and an affirmative decision was made by someone without Applicant's knowledge to exercise discretion and not to allow lawyers to ask questions and make arguments. That decision was made without any input from the accused, Applicant Dr. Weinik.

9. Temple did not provide Applicant with the correct Standards of Conduct, Rules, and Procedures in effect 2012-2014 governing time period when Dua allegations supposedly occurred.

10. Temple could not certify on the record that it had applied the Standards of Conduct, Rules, and Procedures in effect 2012-2014 in reviewing Dua complaint. Instead, Dr. Cowell applied standards of conduct written after the the allegations concerning Dr. Dua. In short, Dr. Cowell used the wrong standards against Applicant instead of the ones in effect when Applicant was supposed to have engaged in this misconduct.

11. Applicant was never given the date of the alleged event that occurred 4 to 6 years ago where Dr. Dua claims Applicant acted wrongly. The room at PCOM where those lectures were held was wired for video and audio, and Applicant was unable to seek out if there are any recordings and video of the event to disprove Dr. Dua's allegations.

12. The By-Laws say hearsay is only admissible if "...it is the sort of evidence on which responsible persons are

accustomed to rely in the conduct of serious affairs...” See 8.4.7. The committee members clearly understood that in arriving at the decision that they did. MSEC, its investigators, and Dr. Cowell failed to understand this distinction and credited all hearsay, whether it was reliable or not, and failed to understand the distinction. Applicant believes that the members of MSEC asked to vote on the hearing committee’s findings could not have read his post hearing written argument. Instead, Applicant believes MSEC was so anxious to impose its pre-determined guilt and penalty upon Applicant no matter what the evidence was that was produced, no matter how the witnesses’ demeanor and affect appeared at hearing, and no matter what the hearing committee members thought.

13. Applicant avers that he was denied due process when the results of a five hour hearing with more that 50 pages of post hearing argument and exhibits was completely

ignored by the charging body, MSEC, and MSEC unilaterally re-imposed its findings of violations and penalty of expulsion. Applicant is left to wonder for the entire hearing committee process was a designed farce: a pretext to pretend at “due process” when the MSEC decision was going to the Board no matter what the hearing committee ruling turned out to be.

14. Applicant points out to the Board that the entire process from allegation through this current appeal has cost Applicant an enormous sum of money and great stress to be currently in exactly the same place Applicant was in when MSEC recommended expulsion before the hearing was scheduled. Thus, Applicant has not only suffered from a lack of due process since the hearing committee’s rulings were wiped away by MSEC, he has suffered extensive monetary damages as well.

1 TEMPLE HOSPITAL MEDICAL STAFF HEARING

2
3 RE: MICHAEL WEINIK, D.O.
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5

6 -----
7 Tuesday, July 10, 2018
8 -----

9 Medical Staff Hearing in the above
10 matter, held at Temple University Hospital, 3401
11 North Broad Street, Boyer Pavilion, 9th Floor,
12 Philadelphia, Pennsylvania, beginning at 5:30
13 p.m., on the above date, before Jan Singer Brooks,
14 Court Reporter and Notary Public.

15 -----
16 VERITEXT COURT REPORTING

 1801 Market Street

17 Suite 1800

 Philadelphia, Pennsylvania 19103
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23
24

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 MEDICAL STAFF PANEL</p> <p>4</p> <p>5 JOHN DAY, M.D., Chair</p> <p>6 JOSEPH QUEENAN, M.D.</p> <p>7 KARN LIN, M.D.</p> <p>8 ---</p> <p>9 PAUL WRIGHT, ESQUIRE</p> <p>10 2450 W. Hunting Park Avenue</p> <p>11 Floor 4</p> <p>12 Philadelphia, PA 19129-1398</p> <p>13 Counsel for Temple University Health System</p> <p>14 VINCENT COWELL, M.D.</p> <p>15 For Medical Staff Executive Committee</p> <p>16</p> <p>17 ROGERS CASTOR</p> <p>18 BY: BRUCE L. CASTOR, JR., ESQUIRE</p> <p>19 LANCE ROGERS, ESQUIRE</p> <p>20 26 East Athens Avenue</p> <p>21 Ardmore, PA 19003</p> <p>22 ph: 610-649-1880</p> <p>23 bruce@rogerscastor.com</p> <p>24 Counsel for Michael Weinik, D.O.</p> <p>25 MICHAEL WEINIK, D.O.</p> <p>26</p> <p>27 -----</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX (Continued)</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4</p> <p>5 VIKRAM ARORA, D.O.</p> <p>6 By Dr. Weinik 159</p> <p>7</p> <p>8 By Dr. Cowell 166</p> <p>9</p> <p>10 ILYA ILGONIKOV, M.D.</p> <p>11 By Dr. Weinik 176</p> <p>12 By Dr. Cowell 182</p> <p>13</p> <p>14 JUSTIN AVERNA, D.O.</p> <p>15</p> <p>16 By Dr. Weinik 194</p> <p>17</p> <p>18 By Dr. Cowell 203</p> <p>19</p> <p>20 MICHAEL WEINIK, D.O. 220</p> <p>21 By Mr. Cowell 240</p> <p>22</p> <p>23 -----</p> <p>24 EXHIBITS</p> <p>25</p> <p>26 No. 1 TUH Medical Staff Exhibits</p> <p>27 No. 2 Mullan Statement</p> <p>28 No. 3 Naftulin Memo</p> <p>29 No. 4 Castor Letter</p> <p>30</p> <p>31 -----</p> <p>32</p> <p>33</p> <p>34</p>
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<p style="text-align: right;">Page 6</p> <p>1 Rogers Castor.</p> <p>2 MR. ROGERS: Lance Rogers with</p> <p>3 Rogers Castor representing Dr. Weinik.</p> <p>4 MR. WRIGHT: I'm Paul Wright. I</p> <p>5 represent Dr. Cowell and the medical staff.</p> <p>6 DR. COWELL: I'm Dr. Vincent</p> <p>7 Cowell, Past President of the Medical Staff</p> <p>8 of the University Hospital.</p> <p>9 DR. QUEENAN: Joseph Queenan,</p> <p>10 Temple Neurosurgery.</p> <p>11 DR. DALY: I'm Dr. John Daly.</p> <p>12 DR. LIN: Karen Lin, General</p> <p>13 Internal Medicine.</p> <p>14 DR. DALY: Thank you. I know that</p> <p>15 the parties have been given the Hearing</p> <p>16 Panel's rules and they have been sent to you</p> <p>17 but I will briefly review the rules before we</p> <p>18 begin.</p> <p>19 First, all witnesses will be sworn</p> <p>20 in by Jan, the court reporter.</p> <p>21 Second, the attorneys for each</p> <p>22 party shall have no speaking role during the</p> <p>23 hearing. No opening arguments, no</p> <p>24 statements, objections, questioning of</p>	<p style="text-align: right;">Page 8</p> <p>1 witness called by either party will testify</p> <p>2 once and will be subject to direct or cross</p> <p>3 examination by either/or both parties and</p> <p>4 will be dismissed after giving each such</p> <p>5 testimony.</p> <p>6 Each party may submit a written</p> <p>7 closing statement to the Panel within three</p> <p>8 calendar days of receipt of the hearing</p> <p>9 transcript that we will obtain. Any party</p> <p>10 who will submit a written closing statement</p> <p>11 to the Panel must so advise the Panel before</p> <p>12 the hearing is adjourned today. The Chair of</p> <p>13 the Hearing Panel, that is myself, may</p> <p>14 dismiss either party or conclude the hearing</p> <p>15 if a party repeatedly violates, despite</p> <p>16 warning, the rules established by this</p> <p>17 Hearing Panel.</p> <p>18 Now, do any of the parties have any</p> <p>19 questions about these rules?</p> <p>20 DR. WEINIK: No.</p> <p>21 DR. DALY: All right. Sorry.</p> <p>22 DR. WEINIK: Before we have --</p> <p>23 MR. CASTOR: No, go ahead.</p> <p>24 DR. DALY: So what we will do now,</p>
<p style="text-align: right;">Page 7</p> <p>1 witnesses or closing arguments.</p> <p>2 Three, the attorneys for either</p> <p>3 party will be able to privately counsel their</p> <p>4 clients during the hearing.</p> <p>5 Fourth, the opening statements by</p> <p>6 each party will be limited to approximately</p> <p>7 five minutes.</p> <p>8 And five, the closing oral</p> <p>9 arguments by each party will be limited to</p> <p>10 approximately ten minutes.</p> <p>11 The Hearing Panel may ask questions</p> <p>12 of any party or witness. For each phase of</p> <p>13 the hearing, that is the opening statements,</p> <p>14 the presentation of evidence, the closing</p> <p>15 oral arguments, the Medical Staff shall go</p> <p>16 first and Dr. Weinik shall go second.</p> <p>17 The Chair of the Hearing Panel,</p> <p>18 that is me, in consultation with the other</p> <p>19 two panel members shall make rulings on the</p> <p>20 admissibility of any testimony or any other</p> <p>21 evidence. The Chair of the Hearing Panel may</p> <p>22 also ask either party to state the relevance</p> <p>23 of any proposed testimony or other evidence</p> <p>24 before hearing or accepting the same. Any</p>	<p style="text-align: right;">Page 9</p> <p>1 we will have opening statements first by</p> <p>2 Dr. Cowell and then by Dr. Weinik.</p> <p>3 Vince. Sorry?</p> <p>4 MR. CASTOR: I shouldn't have</p> <p>5 interrupted him.</p> <p>6 DR. WEINIK: I would like to offer</p> <p>7 some preliminary matters for the record,</p> <p>8 please.</p> <p>9 DR. DALY: You can do that during</p> <p>10 an opening statement. Can we do that? At</p> <p>11 that point I think would be most appropriate.</p> <p>12 We'll let Dr. Cowell go first and then,</p> <p>13 Dr. Weinik, you can entire anything you want</p> <p>14 at that time. Statements and all of that</p> <p>15 will be on the record.</p> <p>16 Vince, would you start, please?</p> <p>17 DR. COWELL: Again, my name is</p> <p>18 Vince Cowell. At the time of the concerns</p> <p>19 before us I was President of Temple</p> <p>20 University Hospital Medical Staff and I am</p> <p>21 tasked with presenting and representing the</p> <p>22 evidence at this hearing based on Temple</p> <p>23 University Hospital's Medical Staff</p> <p>24 investigation.</p>

<p style="text-align: right;">Page 10</p> <p>1 I will bring up and present</p> <p>2 Dr. Ellen Tedaldi as a witness on behalf of</p> <p>3 the Medical Staff and we will present</p> <p>4 numerous documents in support of the Medical</p> <p>5 Staff Executive Committee's decision to</p> <p>6 recommend to the hospital Board of Trustees</p> <p>7 that Dr. Weinik's membership on the Medical</p> <p>8 Staff be terminated. The recommendations to</p> <p>9 terminate Dr. Weinik's Medical Staff</p> <p>10 membership was based on a pattern of</p> <p>11 unprofessional behavior that despite verbal</p> <p>12 warnings and collegial intervention remained</p> <p>13 inappropriate in several aspects.</p> <p>14 As you will see, the majority of</p> <p>15 the complaints detailing Dr. Weinik's</p> <p>16 unprofessional conduct were made from women</p> <p>17 reflecting their claims that inappropriate</p> <p>18 comments to female residents in the Pain</p> <p>19 Management and Rehabilitation Program. He</p> <p>20 commented on their physical appearance, asked</p> <p>21 inappropriate and personal questions that</p> <p>22 were sexual in relation. He had been alleged</p> <p>23 to have inappropriately touched a resident's</p> <p>24 female area during simulated demonstration,</p>	<p style="text-align: right;">Page 12</p> <p>1 administrator for, as they described, "name</p> <p>2 dropping" and letting their residents know</p> <p>3 that they will need a letter from him in</p> <p>4 order to advance in their careers.</p> <p>5 I will present the time line events</p> <p>6 that brings us up to today. You will see</p> <p>7 that the professional -- Physician</p> <p>8 Professional Conduct policy in Article 7 of</p> <p>9 the Medical Staff Bylaws in which establishes</p> <p>10 the basis for bringing such adverse actions</p> <p>11 against Dr. Weinik as included in the evident</p> <p>12 packet. We will show you that Dr. Weinik has</p> <p>13 taken the preventive discrimination and</p> <p>14 harassment courses for all employees,</p> <p>15 training at the university which is an annual</p> <p>16 competency. He should have known that the</p> <p>17 conduct was improper and unprofessional. And</p> <p>18 we will take you through the verbal and</p> <p>19 written complaints made against Dr. Weinik</p> <p>20 starting back in November of 2016.</p> <p>21 Dr. Weinik may view the credibility</p> <p>22 of those with impunity and as they have been</p> <p>23 presented. I only ask you that you consider</p> <p>24 this firsthand information about the specific</p>
<p style="text-align: right;">Page 11</p> <p>1 patient exam.</p> <p>2 In addition, according to multiple</p> <p>3 PM&R residents, Dr. Weinik's activity, in</p> <p>4 particular, his conduct with female patients</p> <p>5 that happened to be described as young,</p> <p>6 attractive, were routinely more physical and</p> <p>7 longer than with other patients. This</p> <p>8 conduct stood out to several residents in the</p> <p>9 department to the point where they described</p> <p>10 his physical exams for -- such as "handsy"</p> <p>11 and even characterized them as "Weinik being</p> <p>12 Weinik" or "she got Weinik-ed."</p> <p>13 Dr. Weinik's behavior created an</p> <p>14 environment that, as the residents described</p> <p>15 in the PM&R Department, both male and female,</p> <p>16 very uncomfortable.</p> <p>17 Our evidence will show that</p> <p>18 Dr. Weinik also was alleged to have used his</p> <p>19 position as Intern Department Chair and his</p> <p>20 connections in our community to suppress or</p> <p>21 intimidate potential complaints about his</p> <p>22 behavior.</p> <p>23 Dr. Weinik is known by the</p> <p>24 residents and graduate medical education</p>	<p style="text-align: right;">Page 13</p> <p>1 information that has come our way.</p> <p>2 We are there for the first</p> <p>3 allegation of "black dress walk of shame</p> <p>4 incident" which Dr. Weinik denied as well as</p> <p>5 inappropriately touching Dr. Dua's private</p> <p>6 parts. There are numerous such allegations</p> <p>7 made that all lead to a body of concern at</p> <p>8 work. The evidence has shown that nothing</p> <p>9 really changed, that Dr. Weinik continues</p> <p>10 to -- continued to have people characterized</p> <p>11 activities and actions as "Weinik being</p> <p>12 Weinik."</p> <p>13 So as Dr. Tedaldi who is, again,</p> <p>14 our witness, will explain the highlights of</p> <p>15 our investigation and we will attempt to</p> <p>16 present the evidence as it was presented to</p> <p>17 us starting back in the beginning of November</p> <p>18 of 2016 leading up to our present scenario.</p> <p>19 We will also present the work of</p> <p>20 the collegial intervention that was directed</p> <p>21 by Allyson Saccomandi, the Director of the</p> <p>22 Burn Unit and Organizational Development</p> <p>23 Program here at Temple. And we will show</p> <p>24 that in 2000 -- I'm sorry, a January 16, 2018</p>

<p style="text-align: right;">Page 14</p> <p>1 e-mail from Dr. Dua, another former female 2 PM&R resident, that the basis for -- which is 3 the basis of the most recent investigation of 4 Dr. Weinik's conduct. 5 We will also present an 6 Investigational Report Summary Dr. Tedaldi 7 and I prepared to explain the Medical 8 Staff -- that was prepared for the Medical 9 Staff Committee, Executive Committee, 10 presented on March 15, 2018. 11 Lastly, you will see the letter 12 that Dr. Cushion hand delivered to Dr. Weinik 13 on March 15, 2018 which advised him of the 14 Medical Staff Executive Committee's 15 recommendation to terminate his Medical Staff 16 membership. 17 We believe that the ongoing pattern 18 of unprofessional behavior that continued 19 from March, 2016 until March 15, 2018 20 warranted the Medical Staff Executive 21 Committee's decision to recommend 22 Dr. Weinik's Medical Staff termination. 23 DR. DALY: Dr. Cowell, you have the 24 document you read? Will they be available to</p>	<p style="text-align: right;">Page 16</p> <p>1 I request a copy of Standards of 2 Conduct Rules and Procedures in effect for 3 2012 to 2014 governing the time period when 4 Dr. Dua's allegations supposedly occurred. 5 I also request certification from 6 Temple on the record that it applied the 7 Standards of Conduct Rules and Procedures in 8 effect 2012 to 2014 in reviewing Dua's 9 complaint. I object to any evidence being 10 considered relative to Dua's complaint if 11 such certification cannot be made. 12 I also object to never being given 13 the date of this alleged event that occurred 14 four to six years ago where Dr. Dua claimed I 15 acted wrongly. 16 The room at PCOM where we did those 17 lectures is wired for video and audio and I 18 was unable to seek out if they have 19 recordings and video of the event to disprove 20 Dr. Dua's allegations because I was not given 21 that information. 22 I also want to point out that not 23 all hearsay is automatically admitted. The 24 Bylaws, specifically 8.4.7, say hearsay is</p>
<p style="text-align: right;">Page 15</p> <p>1 the Panel to be able to see any of these 2 written documents? 3 MR. WRIGHT: Yes. 4 DR. DALY: Thank you. That will 5 help. 6 Is there anything further, 7 Dr. Cowell? 8 DR. COWELL: That concludes my 9 opening statement. 10 DR. DALY: Great. Dr. Weinik? 11 DR. WEINIK: Before I give my 12 opening statement I would like to address 13 some preliminary matters. I request 14 permission to have the hearing conducted by 15 counsel per 841. We were never given the 16 chance to be heard before that decision was 17 made. The default is the attorneys 18 participate. A decision was made to exercise 19 discretion and not to allow that without 20 input from us. 21 I request permission to submit a 22 written argument after the transcript is 23 received, as per the Bylaws I need to state 24 that I want to do that.</p>	<p style="text-align: right;">Page 17</p> <p>1 only admissible if, in quotations, "it is the 2 sort of evidence on which responsible persons 3 are accustomed to rely in the conduct of 4 serious affairs," end of quotation marks. So 5 you must conclude that hearsay you get 6 tonight is strictly reliable, hearsay worthy 7 of reliance upon for decision in serious 8 matters. Please bear that in mind. 9 I also request permission to 10 reserve defense opening until Temple's case 11 has rested. 12 DR. DALY: I'm sorry, Dr. Weinik. 13 But your opening statement is the -- because 14 I'm confused by your last comment. Your 15 opening statement is now. There will be an 16 opportunity for a closing statement at the 17 end. 18 DR. WEINIK: I'm sorry, Dr. Daly. 19 This was my preliminary matters before my 20 actual opening statement. 21 DR. DALY: Sure. You can make your 22 opening statement now. 23 DR. WEINIK: Thank you. 24 Let me kindly amend what I said to</p>

<p style="text-align: right;">Page 18</p> <p>1 reflect that the Bylaws that we have were</p> <p>2 approved by Professional Medical Staff on</p> <p>3 October 7, 2016 and that was not in effect</p> <p>4 when the Dr. Dua alleged event happened. And</p> <p>5 as well the Temple University Hospital</p> <p>6 Administrative Policies and Procedures was</p> <p>7 last revised in 12/12/2016, again, not</p> <p>8 reflecting the period of time that Dr. Dua</p> <p>9 alleged this event happened.</p> <p>10 Thank you. I will begin my opening</p> <p>11 statement.</p> <p>12 When we reach the stage of</p> <p>13 proceedings where I'm permitted to finally</p> <p>14 present my defense I will list for the record</p> <p>15 my objections to the procedures Temple has</p> <p>16 followed to reach this point. The guaranties</p> <p>17 of due process that Temple claims to give</p> <p>18 physicians accused of misconduct I contend</p> <p>19 were not afforded to me in Temple's rush to</p> <p>20 judgment based on evidence manufactured by</p> <p>21 persons bent on retaliatory destruction of my</p> <p>22 reputation. To state that I am entirely</p> <p>23 innocent of misconduct by any measure is an</p> <p>24 understatement.</p>	<p style="text-align: right;">Page 20</p> <p>1 injustice done to me. I will pursue this.</p> <p>2 This is my life's work. I know no greater</p> <p>3 cause for me than to care for our poorest and</p> <p>4 to teach and mentor others to do so with</p> <p>5 great competence, respect and caring. And</p> <p>6 that is my job as an attending faculty at</p> <p>7 Temple and as a mentor and trainer of these</p> <p>8 young medical students and residents.</p> <p>9 I will prove that the allegations</p> <p>10 against me are false. Moreover, I will show</p> <p>11 that those accusing me have motive to want to</p> <p>12 hurt me and that Temple did almost nothing to</p> <p>13 corroborate those allegations. Instead,</p> <p>14 Temple took these vial falsehoods at face</p> <p>15 value which brings us here today. Temple</p> <p>16 presumed me guilty. I will prove my</p> <p>17 innocence given the new reality of the true</p> <p>18 burden of proof now lying on me instead of on</p> <p>19 Temple where it belongs.</p> <p>20 You will hear firsthand accounts,</p> <p>21 not hearsay as Temple presents to you, from</p> <p>22 peers of those accusing me coming to my</p> <p>23 defense to refute what has taken me away from</p> <p>24 the privileged calling of helping patients</p>
<p style="text-align: right;">Page 19</p> <p>1 I have devoted over 30 years to</p> <p>2 Temple Medicine, seen over 70,000 patients,</p> <p>3 healed countless people, taught generations</p> <p>4 of young doctors including approximately 300</p> <p>5 residents. And yet now, only after</p> <p>6 circumstances thrust me into a supervisory</p> <p>7 role, to perceive detriment of others who</p> <p>8 felt slighted. We are in the environment of</p> <p>9 the Me, Too movement where any accusation,</p> <p>10 regardless of substantiation, is given</p> <p>11 credence, no matter who gets accused.</p> <p>12 I find myself on the professional</p> <p>13 equivalent of death row. I was stripped of</p> <p>14 my supervisory position, escorted from the</p> <p>15 hospital, given -- not given the opportunity</p> <p>16 to present my own statement or assign someone</p> <p>17 to present my position at the Special</p> <p>18 MSEC meeting and now I face ruination of my</p> <p>19 life's work.</p> <p>20 I'm an even tempered man but I am</p> <p>21 outraged today to be placed in this position</p> <p>22 by liars who feel that I somehow impeded</p> <p>23 their careers going on the defense to take me</p> <p>24 down. I will never stop fighting this</p>	<p style="text-align: right;">Page 21</p> <p>1 with the skilled I have trained for and</p> <p>2 taught others continuously over the past 30</p> <p>3 years, people who Temple should have</p> <p>4 interviewed extensively and in-depth before</p> <p>5 recklessly accusing me.</p> <p>6 When I have completed my defense</p> <p>7 and submitted my post hearing written</p> <p>8 argument you will conclude that Temple too</p> <p>9 quickly believed the allegations against me,</p> <p>10 failing to thoroughly investigate and</p> <p>11 deliver -- and discover bias and motive to</p> <p>12 lie on the part of my accusers and made no</p> <p>13 effort to collaborate their outrageous lies.</p> <p>14 I will ask that you recommend full</p> <p>15 exoneration of me and reinstatement to my</p> <p>16 previous position because I am convinced that</p> <p>17 when you hear all the evidence you, too, will</p> <p>18 conclude that I was falsely accused.</p> <p>19 Thank you.</p> <p>20 DR. DALY: All right. Thank you,</p> <p>21 Dr. Weinik. Anything further?</p> <p>22 And as I ask Dr. Cowell, your</p> <p>23 opening statement that you read from, will</p> <p>24 you submit that to the court reporter as well</p>

<p style="text-align: right;">Page 22</p> <p>1 so we have this?</p> <p>2 MR. CASTOR: I can do that. It has</p> <p>3 to be extricated from the notes that we have</p> <p>4 but I can do that.</p> <p>5 DR. DALY: That would be fine.</p> <p>6 Just for the court reporter, we</p> <p>7 will be swearing in each of the witnesses.</p> <p>8 We'll start with Dr. Cowell, and once he and</p> <p>9 his witnesses are finished, we will be doing</p> <p>10 that for Dr. Weinik as well. But if I forget</p> <p>11 or we forget, you certainly remind me that</p> <p>12 each of them needs to be sworn in.</p> <p>13 Thank you. Dr. Cowell, do you want</p> <p>14 to start and we will swear, please,</p> <p>15 Dr. Cowell in. Thank you very much.</p> <p>16 - - -</p> <p>17 VINCENT COWELL, M.D., after having</p> <p>18 been first duly sworn, was examined and</p> <p>19 testified as follows:</p> <p>20 - - -</p> <p>21 EXAMINATION</p> <p>22 - - -</p> <p>23 DR. DALY: Dr. Cowell, if I might</p> <p>24 just ask you. I know you will be speaking</p>	<p style="text-align: right;">Page 24</p> <p>1 DR. COWELL: The scope and</p> <p>2 responsibilities that all physicians and</p> <p>3 Allied Health Professionals are expected to</p> <p>4 refrain from behaviors towards patients,</p> <p>5 employees, visitors and other practitioners</p> <p>6 that undermine the culture of safety. And</p> <p>7 those definitions of what we construe is</p> <p>8 disruptive conduct, verbal or physical abuse</p> <p>9 of colleagues, residents, students, hospital</p> <p>10 personnel or patients which includes throwing</p> <p>11 objects, threatening violence and other</p> <p>12 aggressive physical contact with others;</p> <p>13 sexual harassment which includes jokes with</p> <p>14 sexual content and comments with sexual</p> <p>15 innuendos, inappropriate language or conduct.</p> <p>16 Again, it goes on to outline areas</p> <p>17 of threatening or intimidation, behavior</p> <p>18 exhibited during interactions with colleagues</p> <p>19 and residents. And any of these concerns can</p> <p>20 be submitted as a formal complaint. And</p> <p>21 those complaints are defined as a writing</p> <p>22 which describes perceived disruptive conduct.</p> <p>23 The evaluation of the process is</p> <p>24 one that interviews, takes into account</p>
<p style="text-align: right;">Page 23</p> <p>1 and you have one other witness. Is there</p> <p>2 anyone else other than Dr. Tedaldi that you</p> <p>3 will wish to call?</p> <p>4 DR. COWELL: No.</p> <p>5 DR. DALY: Thank you. Please go</p> <p>6 ahead. Thanks.</p> <p>7 DR. COWELL: Thank you.</p> <p>8 So I would like to start off by</p> <p>9 first submitting and drawing your attention</p> <p>10 to Temple University Hospital Professional --</p> <p>11 Physician Professional Conduct Policy. In</p> <p>12 particular, the policy outlines a number of</p> <p>13 points but certainly the key ones that I</p> <p>14 would like to draw your attention to is the</p> <p>15 cultural safety that requires collegial</p> <p>16 cooperation and respectful interactions</p> <p>17 between physicians.</p> <p>18 MR. CASTOR: I'm sorry, you're on</p> <p>19 Tab 2?</p> <p>20 DR. COWELL: Yes.</p> <p>21 DR. WEINIK: And it is on what</p> <p>22 page?</p> <p>23 DR. COWELL: The first page.</p> <p>24 DR. WEINIK: Thank you.</p>	<p style="text-align: right;">Page 25</p> <p>1 directors or leaders or superiors to the</p> <p>2 individuals where the concerns have been</p> <p>3 placed and formal interview of those</p> <p>4 individuals go forward.</p> <p>5 You will see the next section of</p> <p>6 the disposition which if you go to Item 3 the</p> <p>7 behavior that meets the definition of</p> <p>8 disruptive conduct and wants submission to</p> <p>9 the Medical Staff Executive Committee for</p> <p>10 possible corrective actions pursuant to</p> <p>11 Article 7.3 of the Medical Staff Bylaws</p> <p>12 either due to severity of the behavior or</p> <p>13 because the physician has had another formal</p> <p>14 complaint asserted against him or her within</p> <p>15 the last five years.</p> <p>16 The actions that can take place</p> <p>17 from that point on at Item No. 8, Collegial</p> <p>18 Intervention, which is outlined for those</p> <p>19 type of corrective actions. And then the</p> <p>20 next, No. 9, more formally the corrective</p> <p>21 actions. And those corrective actions</p> <p>22 pursuant to again 7.3 of the Medical Staff</p> <p>23 Bylaws.</p> <p>24 So if we look to the Tab 3, if you</p>

<p style="text-align: right;">Page 26</p> <p>1 don't mind, Articles Intervention --</p> <p>2 Article 7, I'm sorry, Interventional Peer</p> <p>3 review Corrective Actions and Automatic</p> <p>4 Limitations. Section 7.2.2 which</p> <p>5 outlines/describes Collegial Intervention,</p> <p>6 the relevant department chair working in</p> <p>7 collaboration with other medical staff</p> <p>8 leaders. It goes on to say that the goal of</p> <p>9 Collegial Intervention Peer Review efforts is</p> <p>10 to arrive at voluntary responsive actions by</p> <p>11 the practitioner to resolve questions that</p> <p>12 have been raised.</p> <p>13 The next step in this process is</p> <p>14 Corrective Action, 7.3, more specifically</p> <p>15 7.3.1, Initiation of Formal Corrective Action</p> <p>16 Proceedings. Whenever material patient</p> <p>17 safety concern has been raised or where there</p> <p>18 is collegial intervention efforts have not</p> <p>19 resolved a question regarding the</p> <p>20 practitioner's clinical competency.</p> <p>21 And if you go a little further down</p> <p>22 to 3, "Conduct of a practitioner that is</p> <p>23 considered below professional Medical Staff</p> <p>24 or Hospital standards or disruptive to the</p>	<p style="text-align: right;">Page 28</p> <p>1 what she construed as inappropriate conduct</p> <p>2 directed to her by Dr. Weinik. I was told</p> <p>3 that there was a meeting between Dr. Weinik,</p> <p>4 Dr. Weigers and Ms. Coull that addressed</p> <p>5 those concerns and that they themselves found</p> <p>6 them significant enough that they -- that it</p> <p>7 should warrant some type of Action Plan.</p> <p>8 They invited Dr. Weinik to</p> <p>9 voluntarily enter an Action Plan that would</p> <p>10 include personal counseling, and that at the</p> <p>11 time Dr. Weinik declined that offer and that</p> <p>12 they would hope that the concerns that</p> <p>13 addressed at the time would not continue.</p> <p>14 At that time Dr. Brown refused to</p> <p>15 make it formal, i.e., in writing, and the</p> <p>16 situation had hoped to have been at least</p> <p>17 addressed to the point where it was no longer</p> <p>18 an issue.</p> <p>19 A few months later in February of</p> <p>20 2017 it appeared that Dr. Brown met with Sue</p> <p>21 Coull regarding the new complaint about</p> <p>22 Dr. Weinik and Dr. Brown was advised that she</p> <p>23 should put her concerns in writing so that</p> <p>24 they could be addressed formally through the</p>
<p style="text-align: right;">Page 27</p> <p>1 orderly operations of the Hospital, the</p> <p>2 matter will be referred to the President of</p> <p>3 the Medical Staff and the Chief Medical</p> <p>4 Officer who shall then review the matter and</p> <p>5 its appropriateness, forward to the Medical</p> <p>6 Staff Executive Committee, and the Medical</p> <p>7 Staff Executive Committee may determine</p> <p>8 whether there is basis for an investigation."</p> <p>9 So to start at the time line that,</p> <p>10 again, the initial concern that was brought</p> <p>11 to the attention of the Medical Staff</p> <p>12 President, that being myself, was back in</p> <p>13 November of 2017 at which time I was called</p> <p>14 to have counsel with the Vice Dean, Dr. Susan</p> <p>15 Weigers, and the Director of the Graduate</p> <p>16 Medical Educational Office, Mrs. Sue Coull</p> <p>17 who informed me of a --</p> <p>18 MR. QUEENAN: You said 2017. It's</p> <p>19 2016.</p> <p>20 DR. COWELL: 2016, I apologize.</p> <p>21 2016.</p> <p>22 In 2016 where I was informed of a</p> <p>23 concern that was brought up by the residents,</p> <p>24 more specifically, Dr. Brown, about the --</p>	<p style="text-align: right;">Page 29</p> <p>1 Physician Professional Conduct Policy.</p> <p>2 Dr. Brown subsequently made those</p> <p>3 concerns via writing and you can refer to --</p> <p>4 and so with those formal concerns placed in</p> <p>5 writing and submitted to Medical Staff</p> <p>6 Committee, Dr. Tedaldi and I personally</p> <p>7 conducted an investigation of those concerns.</p> <p>8 And so at this point I would like</p> <p>9 to bring Dr. Tedaldi in to join us.</p> <p>10 MR. CASTOR: Mr. Chairman, I don't</p> <p>11 understand. That was testimony. Does not</p> <p>12 Dr. Weinik get to cross examine that</p> <p>13 testimony before another with witness is</p> <p>14 called?</p> <p>15 DR. DALY: He may.</p> <p>16 MR. CASTOR: So Dr. Tedaldi should</p> <p>17 not come in yet.</p> <p>18 DR. DALY: We can wait for Dr.</p> <p>19 Tedaldi to come in. We can have some cross</p> <p>20 examination if you wish at this time.</p> <p>21 MR. CASTOR: I thought that was the</p> <p>22 procedure. If I have it wrong. . .</p> <p>23 DR. DALY: That's fine.</p> <p>24 Dr. Weinik, go ahead, please.</p>

<p style="text-align: right;">Page 30</p> <p>1 We'll let the cross examination of Dr. Weinik 2 to Dr. Cowell occur now. 3 MR. WRIGHT: I don't know whether 4 Dr. Cowell is going to have other statements 5 and testimony that he's going to make 6 that. . . 7 DR. DALY: Well, let's clarify 8 that. Will you have things further to say as 9 a witness in the proceeding as well after 10 Dr. Tedaldi is going to testify? 11 DR. COWELL: There's -- I mean I 12 could in the form of asking Dr. Tedaldi 13 questions to further provide witness to some 14 of the events I may do that depending on what 15 she says or doesn't say. But certainly I 16 mean -- 17 DR. DALY: Well, just to make this 18 orderly, if you're going to act as a witness 19 further subsequent to Dr. Tedaldi, let's wait 20 for the cross examination. If, on the other 21 hand, you're simply going to ask Dr. Tedaldi 22 questions during her testimony, then we will 23 not do that. If you're trying to bring 24 something out we will wait.</p>	<p style="text-align: right;">Page 32</p> <p>1 extend this time line before Dr. Tedaldi? 2 DR. DALY: Yes, I think you do. It 3 does not have to happen in sequence like that 4 at times. So, please, go ahead and finish 5 what you have. 6 DR. COWELL: So at Tab No. 6 you 7 see the written formal complaint submitted by 8 Dr. Cora Brown. There was addressed to Sue 9 Coull again who is the Director of the 10 Graduate Medical Education Program. 11 I don't know if you have had time 12 to look at it and review it. 13 DR. DALY: I haven't. We are 14 seeing this, the Panel is seeing all this for 15 the very first time. Dr. Cowell, if you can 16 just point out the salient points that you 17 wish to and then we can move the process 18 along. 19 DR. COWELL: Got it. 20 So I will take you down to the 21 third paragraph where it says, "On Friday 22 evening, 2/24/17 at the wedding of my 23 correspondent, Dr. Paul Hurd's wedding, Dr. 24 Weinik approached me a few times during the</p>
<p style="text-align: right;">Page 31</p> <p>1 MR. WRIGHT: I think Dr. Cowell is 2 going to give additional testimony after Dr. 3 Tedaldi testifies. So I would respectfully 4 suggest that Dr. Tedaldi undergo cross 5 examination be dismissed and then Dr. Weinik 6 can cross examine Dr. Cowell about all of the 7 things that he's stated in his presentation. 8 Does that sound fair? 9 MR. CASTOR: Mr. Chairman, No. 10 10 of your rules, "Any witness called by either 11 party will testify once and will be subject 12 to direct or cross examination by either/or 13 both parties and will be dismissed after 14 giving such testimony." 15 It sounds to me like this witness 16 will be testifying more than once. 17 DR. DALY: It does sound like that 18 to me as well. 19 So I think what might be best would 20 be for you to finish whatever you have to 21 say, we will let the cross examination occur 22 and then have Ellen come in, Dr. Tedaldi come 23 in. 24 DR. COWELL: So I mean should I</p>	<p style="text-align: right;">Page 33</p> <p>1 evening. He made comments about my body 2 shape, calling me 'so skinny,' and then 3 labeling me as an anorectic. He even made 4 comments of how sexy my dress looked but I 5 was too skinny." 6 Further on down please take note of 7 the comments "These instances came after 8 other instances and sexually inappropriate 9 comments he made of me in October of 2016 at 10 which time I brought them up to your 11 attention. I was aware that Dr. Weinik got 12 verbal warning during that time period. Dr. 13 Weinik continued showing very inappropriate 14 behaviors and comments about my body shape, 15 clothes and even so intrusive into my 16 personal life in a public place where 17 patients are being seen and in front of other 18 health care professionals. His obsessive and 19 stalky behaviors about me continue to occur 20 at not only Temple University Hospital but 21 outside Temple Hospital settings as well. 22 "I felt so violated and so 23 uncomfortable even putting my foot step 24 around PM&R clinic that I would run into</p>

<p style="text-align: right;">Page 34</p> <p>1 Dr. Weinik and hear his inappropriate</p> <p>2 comments about me. These instances occurred</p> <p>3 while I was not even on his rotation.</p> <p>4 "I would hope further action to be</p> <p>5 taken from the GME on this matter so that I</p> <p>6 can believe being at Temple University</p> <p>7 Hospital is for learning to become a PM&R</p> <p>8 physician rather than dealing with the sexual</p> <p>9 inappropriate comments, behaviors from a PM&R</p> <p>10 attending and interim Chair, Dr. Weinik."</p> <p>11 So following the submission of</p> <p>12 these concerns we looked into the matter and</p> <p>13 we started off by notifying Dr. Weinik,</p> <p>14 inviting him to access to the concerns</p> <p>15 expressed. We informed him that a formal</p> <p>16 process would be set in place that would</p> <p>17 interview any and all relevant witnesses and</p> <p>18 that it would also culminate in inviting him</p> <p>19 in presenting the concerns expressed and</p> <p>20 inviting his rebuttal, his answer to some of</p> <p>21 the questions that we may have.</p> <p>22 Following that investigation this</p> <p>23 is the statement that I wrote and culminating</p> <p>24 my impression of what we had -- the</p>	<p style="text-align: right;">Page 36</p> <p>1 Dr. Tedaldi and I reviewed the</p> <p>2 complaints by Dr. Brown as well as the</p> <p>3 evidence provided, and determined that there</p> <p>4 is insufficient evidence to fully support all</p> <p>5 of the individual allegations. However, we</p> <p>6 are persuaded that you are responsible in</p> <p>7 some part for unwelcome inclusion into Dr.</p> <p>8 Brown's personal and private space.</p> <p>9 Accordingly, we formally recommend that you</p> <p>10 undergo professional coaching with follow up,</p> <p>11 that progress be provided to Dr. Kaiser in</p> <p>12 lieu of Department Chair person. The Medical</p> <p>13 Staff will provide resources in anticipation</p> <p>14 of your acceptance.</p> <p>15 This Action Plan was presented to</p> <p>16 Dr. Weigers' immediate supervisor, that being</p> <p>17 the fact that he is a Chair and Dr. Kaiser is</p> <p>18 the Dean and his direct reporting superior.</p> <p>19 Dr. Kaiser agreed and signed off to</p> <p>20 this Action Plan in conjunction with</p> <p>21 Dr. Weigers and it was then presented to</p> <p>22 Dr. Weinik who agreed to the Action Plan by</p> <p>23 virtue of his signature and we put in motion</p> <p>24 the arrangements for him to enter into a</p>
<p style="text-align: right;">Page 35</p> <p>1 proceedings and outline in an Action Plan.</p> <p>2 If you read this dated April 5,</p> <p>3 2017 it was outlining the concerns that were</p> <p>4 presented to -- through the Medical Staff by</p> <p>5 Cora Brown and then a copy of the written</p> <p>6 statement detailing her allegations were</p> <p>7 admitted and the inquiry was taken into</p> <p>8 consideration, previous concerns starting</p> <p>9 back in November of 2016 were raised by the</p> <p>10 same resident.</p> <p>11 With regard to the most recent</p> <p>12 concerns by Dr. Brown, separate interviews</p> <p>13 were conducted by Dr. Tedaldi and I which</p> <p>14 included Dr. Weigers, Sue Coull and Dr. Brown</p> <p>15 followed by Dr. Crus prior to our meeting</p> <p>16 with you. At that point meeting attempts</p> <p>17 were made to have a comprehensive and</p> <p>18 constructive -- and be constructive in</p> <p>19 securing any and all information relevant to</p> <p>20 the allegations, and the objective was to</p> <p>21 identify the issues and create a Plan of</p> <p>22 Action designated to ensure safe and</p> <p>23 conductive, effective work environment for</p> <p>24 all parties involved.</p>	<p style="text-align: right;">Page 37</p> <p>1 personal conduct process to try and again</p> <p>2 find a venue to -- for corrective action.</p> <p>3 So, again, this is now at the point</p> <p>4 where we have the collegial intervention. We</p> <p>5 went from the personal warning to the</p> <p>6 collegial intervention phase.</p> <p>7 The Collegial Intervention Phase,</p> <p>8 Tab No. 8. The personal coaching assignment</p> <p>9 went to Allyson Saccomandi in April of 2017.</p> <p>10 "Dr. Cowell approached me," this is her</p> <p>11 memorandum, "approached me to work with Dr.</p> <p>12 Weinik after a complaint investigation</p> <p>13 involving unprofessional behavior."</p> <p>14 As you go on it highlights he was</p> <p>15 adamant that he understood why the issue was</p> <p>16 raised and commented -- committed to making</p> <p>17 sure it would not happen again.</p> <p>18 "On April 27, 2017 he reached out</p> <p>19 to tell me that he was behind in his process</p> <p>20 due to other commitments but was still</p> <p>21 interested in moving forward and would focus</p> <p>22 on it in the coming weeks."</p> <p>23 If we go to Page 2 it says, "By</p> <p>24 June 1, 2017 I still -- I had still not</p>

<p style="text-align: right;">Page 38</p> <p>1 received the information I needed to start 2 the process. I reached out to Dr. Weinik via 3 e-mail to say that I was concerned we were 4 falling behind since I hadn't heard back from 5 him on his final invitation." 6 It goes on to June 12, 2017. She 7 reached out again for the outstanding e-mail 8 addresses. He responded that he was learning 9 something again through the process about 10 himself and his ability to follow through. 11 The next paragraph. "On June 30, 12 2017, we scheduled time to meet face-to-face. 13 We discussed the difficulty we had having 14 getting to the point and the importance of 15 follow through and the impact this has on 16 other work beyond the 360 survey." 17 And so it goes on and on. If you 18 go to Page 3 it says, "By August 24, 2017 I 19 closed the 360 without his feedback as the 20 coaching assignment was beginning to drag on 21 much longer than anticipated and there was 22 relevant feedback from others that we could 23 work with." 24 Further down, "I was out of the</p>	<p style="text-align: right;">Page 40</p> <p>1 would be fine. I opted to wait until the 2 meeting on the 15th but was seeing a pattern 3 of non-commitment to the process that had 4 been prevailing from the beginning. 5 "On December 15, 2017 Jean 6 Tamasaukas canceled the meeting scheduled for 7 that afternoon and rescheduled it for 8 December 21, 2017. 9 "At this point I was very concerned 10 this assignment was not moving forward in a 11 positive direction and that there was a lack 12 of commitment to the process. While 13 discussions seemed positive when we did 14 connect, there was a consistent lack of 15 follow-up." 16 On Page 6, the last paragraph in 17 conclusion, it says, "This coaching 18 assignment could have been more concise and 19 focused. I originally thought this 20 engagement would take us through the end of 21 September. After re-focusing I anticipated 22 we would finish up by the end of December. I 23 am hoping 2018 brings a renewed focus but I 24 am concerned that it is not a priority. I am</p>
<p style="text-align: right;">Page 39</p> <p>1 office on October 25 and due to a 2 certification and rescheduled for November 3, 3 2017. During that conversation we discussed 4 the minimal progress but he said that he had 5 been spending time thinking about the areas 6 he needed to develop and was, in fact, 7 formulating ways to move forward." 8 So as I continued to see that 9 Dr. -- I'm sorry, Mrs. Saccomandi's 10 assessment continues to outline a pattern of 11 what can be seen as less than seriousness in 12 terms of the meaning and purpose and hopeful 13 outcome from this type of intervention where 14 the whole intent and purpose was supposed to 15 focus. And it just goes on. 16 It says, "November 15, 2017 Jean 17 Tamasaukas canceled the meeting scheduled for 18 November 17, 2017 and offered no reschedule, 19 instead saying he would see me again on 20 December 1, 2017. 21 "On November 27, 2017 Jean 22 Tamasaukas e-mailed to cancel my December 1 23 meeting. She asked if she should reschedule 24 sooner or if the next meeting on the 15th</p>	<p style="text-align: right;">Page 41</p> <p>1 committed to working through April with Dr. 2 Weinik. If the pattern of cancellations 3 continue I would recommend ending the 4 assignment." 5 Again, this is the report submitted 6 by Ms. Saccomandi regarding the attempt to 7 get traction on the Action Plan as outlined 8 earlier. 9 So we take you to Section 10. You 10 will see the -- another written concern that 11 was submitted unsolicited to the attention of 12 the Medical Staff by Dr. Dua. And some of 13 the highlights of this submission include the 14 third paragraph. "I was a PGY-2 when I had 15 my first uncomfortable encounter with Dr. 16 Weinik. I was on consults with walking 17 through the hall from the resident's room to 18 the clinic. He stopped me and asked, 'So, my 19 name, are you a good girl or a bad girl?' I 20 was puzzled and weirded out by the tone of 21 his voice and the nature of his questions." 22 "I asked, 'What?'" 23 "He repeated, 'Are you a good girl 24 or a bad girl? Bad girl, bad girl.'</p>

<p style="text-align: right;">Page 42</p> <p>1 "I said, 'I don't know what you are 2 talking about,' to which he replied, 'Yeah, 3 you are definitely a bad girl, bad, bad girl. 4 Don't worry, we like bad girls at Temple.' 5 "Then he laughed and I felt awful 6 and confused and I said, 'I don't know what 7 you're even talking about,' and I just walked 8 away as he kept laughing. 9 "The same year I was wearing an 10 appropriate work skirt that just showed my 11 knees. In the same hallway he stopped me and 12 asked if I was hyper mobile. I said, 'I 13 don't think so.' He then knelt down on his 14 knee to take a look at my knees and then 15 touched the popliteal area of my leg with his 16 hand as he looked from the side and he then 17 said, 'You are like Gumby. You look like you 18 are probably so flexible.' 19 "I said, 'No, I am not,' and I 20 backed away from his hand. 21 "He responded, 'I would like to 22 find out for myself.' 23 "Again I walked away and this time 24 I remember laughing out loud to try to reduce</p>	<p style="text-align: right;">Page 44</p> <p>1 population, females, especially young and 2 pretty." 3 Next paragraph. "He had one 4 patient that we saw on the list and he said 5 'She comes in to see me because her husband 6 doesn't give her enough loving. Weinik will 7 make sure she is taken care of. Haha. She 8 will get all dolled up for me and just watch, 9 she will have me adjust osteopathic 10 manipulation and I will make her feel good.' 11 He would make those comments with a tone and 12 smile that was so unprofessional. I always 13 thought to say something but, again, he was 14 the boss, the attending, the guy filling out 15 my evaluation. I didn't want to anger him in 16 any way but I hated how this all made me 17 feel." 18 Next page. "He called me to the 19 stage in front of everyone so he could 20 demonstrate the lower body physical 21 examination maneuver on me." Further down it 22 says, 'I won't tell them about your tramp 23 stamp.' I was super offended. I didn't have 24 a back tattoo, a/k/a a tramp stamp, and that</p>
<p style="text-align: right;">Page 43</p> <p>1 the awkwardness. I was in fear that one day 2 I had to work with this guy. I didn't want 3 to piss him off but I felt violated." 4 The next paragraph. "I avoided him 5 as many female residents do because of his 6 unusual and often perverted comments 7 regarding any female, patients, nurses, 8 therapists and residents. Anyone was fair 9 game and male residents would often pretend 10 to play along and say, 'It's just Weinik 11 being Weinik.' I never understood that 12 excuse." 13 Further on in the next paragraph 14 middle, "But when I saw how he treated young 15 female patients or just pretty women 16 differently than any other patient, his exam 17 would become extensive as he would check for 18 various pathologies but it always seemed 19 overboard and, frankly, made me very 20 uncomfortable." 21 Further on at the end of that 22 paragraph, "I understand the importance of 23 the physical exam, but this was just over the 24 top and only directed at a specific</p>	<p style="text-align: right;">Page 45</p> <p>1 was just a super demeaning, unnecessary 2 comment. He laughed as did the whole 3 audience. I felt embarrassed but tried to 4 just go with it and get the whole thing over 5 with. 6 "He then had me stand and said he 7 was checking my ischial bursa and he said, 8 'Very nice, very nice.' Again, 9 uncomfortable. Audience laughed. I didn't 10 like his hands on my buttocks because I felt 11 like I was just like those patients he 12 manipulates. It is an impossible position. 13 "Then he went on and on, hand 14 everywhere, and I just -- eventually saying 15 he was going to check out pubalgia, also 16 known as a sports hernia or athletic 17 pubalgia. This is a chronic grown lesion but 18 to check he essentially would push in my 19 pubic symphysis in front of everyone. I said 20 'I don't know about that.' Before I could 21 stop him his hand was not just on my pubic 22 region but on my vulva. 23 "I shot up off the table and said, 24 'Yeah, that's not my pubic symphysis."</p>

<p style="text-align: right;">Page 46</p> <p>1 Everyone started laughing. I was mortified. 2 Bumped he tried to play it off. I was beyond 3 offended and felt manipulated, used, 4 embarrassed and horrified. 5 "The male chief resident came up to 6 me right away and asked if I was okay. When 7 I said, 'Yes, I'm fine,' he eased up and 8 said, 'Damn, he didn't even buy you dinner 9 before that.'" 10 And again, further on in that 11 paragraph towards the end it says, "Weinik 12 was just being Weinik." 13 The next paragraph down, the last 14 sentence, "His behavior and comments were 15 just often unacceptable." 16 Last paragraph, "But now I fear for 17 others and I feel I must open up about this. 18 I still feel the need to remain anonymous 19 because PM&R is a small field and he is well 20 connected. I work near and don't want my job 21 or my life to be compromised and I don't want 22 sympathy, I just don't want this to happen to 23 others." 24 With that, I will conclude my</p>	<p style="text-align: right;">Page 48</p> <p>1 but I'm sure it's still a matter of record and we 2 can probably produce that without much effort. 3 Q. So are you aware that the Dr. Dua 4 situation occurred or complaints occurred in 2012 5 to 2014? 6 A. I understand that Dr. Dua was a resident 7 here between the time of 2012 and 2014. 8 DR. DALY: I think we can provide 9 you the Bylaws if that's what you wish. I'm 10 certain that Bylaws prior to revisions for 11 that period of time can be provided. 12 MR. ROGERS: Policies and 13 procedures. 14 MR. CASTOR: Yes, this is not the 15 procedures because they are two different 16 documents. 17 DR. DALY: I appreciate that. 18 Thank you. 19 MR. CASTOR: But these were the 20 ones that -- 21 DR. DALY: Please. 22 Dr. Weinik, go ahead. 23 BY DR. WEINIK: 24 Q. So Dr. Cowell, this policy was adopted</p>
<p style="text-align: right;">Page 47</p> <p>1 witness perspective and invite cross 2 examination. 3 DR. DALY: Thanks, Dr. Cowell. 4 Dr. Weinik. Dr. Weinik, please. 5 --- 6 EXAMINATION 7 --- 8 BY DR. WEINIK: 9 Q. Dr. Cowell, you read directly from the 10 policy; is that correct? 11 MR. CASTOR: Tab 2. 12 BY DR. WEINIK: 13 Q. Tab 2. 14 A. Yes. 15 Q. Policies and Procedures. The policy 16 quoted, was that in effect in 2012 - 2014? 17 A. I believe so. The policy had a few 18 revisions that reflected some of the language that 19 I believe were originated from the state and -- 20 but for in terms of the concept, the policy from 21 as far as I remember is pretty much the same. 22 Q. Where is the actual policy from 2012 to 23 2014? 24 A. I am -- obviously we don't have it here</p>	<p style="text-align: right;">Page 49</p> <p>1 in 2017. So you agree it was not in effect in 2 2012 to 2014; is that correct? 3 A. I agree that there were some revisions 4 made to the policy that updated some of the 5 language. For instance, the former policy I 6 believe was disruptive physician and we -- names 7 were changed to physician professional conduct. I 8 don't believe -- 9 DR. DALY: May I ask a question, 10 though, perhaps to Mr. Wright. This says the 11 last revised is a 12/12/16. So does this 12 mean that this written policy that we have 13 here in front of us was in effect as of 14 December 12, 2016. 15 MR. WRIGHT: I believe that's 16 right. If you look at the last page it's -- 17 DR. DALY: So it's not 2017. It 18 was in effect as of December, 2016, just so 19 we have this established for the record. 20 Dr. Weinik, please go ahead. 21 BY DR. WEINIK: 22 Q. We were provided with the Bylaws of 23 10/7/2016. 24 A. Yes.</p>

<p style="text-align: right;">Page 50</p> <p>1 DR. DALY: A different document, 2 not this document. I understand. 3 So, Dr. Weinik, go ahead, please. 4 BY DR. WEINIK: 5 Q. So the last page of the Bylaws say 6 amended 2011, 2012 and three times in 2013 and 7 2015. Do you see that? 8 A. Yes, I see that. 9 Q. What was amended? 10 A. I can't tell you specifically what was 11 amended. There are a number of reasons why the 12 Bylaws were adjusted, to again bring things 13 up-to-date and bring things much more relevant 14 regarding the changes in the health system that 15 occurred with the merging of the Fox Chase and 16 Jeans facilities so that the language was 17 consistent throughout the system. Whether or 18 not -- for me to say that I can tell you 19 specifically line by line items which was amended 20 or adjusted I cannot do that. 21 DR. DALY: Dr. Weinik, can I just 22 ask what -- I know there's some relevance to 23 all of this. I think we have said the Bylaws 24 for the various dates can be provided to you</p>	<p style="text-align: right;">Page 52</p> <p>1 investigation that includes all of the people 2 involved in it. This was submitted to Sue Coull 3 who is the GME Director, Sue Weigers, the 4 Associate Dean was involved in these proceedings, 5 and this was what was submitted to me. I'm sure 6 there is a track record back to the original 7 submission that would demonstrate there's no 8 alteration of the document. 9 Q. Dr. Cowell, are you going to present any 10 evidence that demonstrates that Cora Brown 11 authored this letter? 12 A. Other than the letter itself and the 13 testimony of individuals that were involved in 14 receipt of the letter and yourself when the letter 15 was written and presented to you for review prior 16 to the -- your testimony, that's all I can offer. 17 Q. Dr. Cowell, where is the date on this? 18 A. Other than the date of the author of the 19 letter? 20 Q. Yes. 21 A. What you see is what I see. I don't -- 22 Q. What is it you see, Dr. Cowell? 23 A. I see dates that were quoted in the 24 letter. I don't see a date of authorship.</p>
<p style="text-align: right;">Page 51</p> <p>1 and to counsel should you wish. 2 Just as a matter of moving along, 3 perhaps we can do that with your questioning 4 of Dr. Cowell. 5 DR. WEINIK: Okay. With all due 6 respect, sir, it's important that the Bylaws 7 at 2012 - 2014 were in effect and Dr. Dua 8 was -- those actions were held to the Bylaws 9 of that time, not the current Bylaws. And 10 that's what I am trying to ascertain. And I 11 was not given the opportunity to defend the 12 correct Bylaws. 13 DR. DALY: I understand that. I 14 think that you and counsel, your counsel will 15 get the opportunity to look at the Bylaws in 16 effect as of those dates. 17 Do you want to move along with your 18 cross examination of Dr. Cowell's testimony? 19 BY DR. WEINIK: 20 Q. Let's go to Tab 6. How can we tell this 21 letter is from Cora Brown as there is no return 22 address and it is unsigned? 23 A. Well, I guess we can -- I mean if 24 there's any opportunity to track -- to do an</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Thank you. So here is a letter that you 2 present that is -- has no date, is unsigned, no 3 return address and no evidence of where it came 4 from? 5 A. And at the time that it was submitted to 6 you I don't believe you expressed those concerns 7 and you didn't deny that there perhaps were some 8 aspects of the letter that needed clarification. 9 So if, again, if this is a technicality that -- 10 the fact that the items that you expressed concern 11 about are not documented, then I can't refute 12 that. The evidence is right in front us for all 13 to see and so I would suggest that anything short 14 of, again, doing a formal investigation to track 15 the authenticity of the letter, I have nothing 16 else to add to it. 17 MR. QUEENAN: I think that we move 18 to say that there's no way that we can at 19 this point validate that this letter is from 20 Dr. Brown. What I would suggest is, and I 21 don't know how reasonable this is or not 22 reasonable, that we contact Dr. Brown as a 23 panel and then determine if she would say 24 that she wrote this letter. And if she does</p>

<p style="text-align: right;">Page 54</p> <p>1 tell us that she wrote the letter, then the</p> <p>2 question is are you disputing what's in the</p> <p>3 letter, are you disputing whether she wrote</p> <p>4 the letter?</p> <p>5 DR. DALY: I would like to have</p> <p>6 Dr. Weinik. We are in the midst of cross</p> <p>7 examination. Let's try to finish with this.</p> <p>8 MR. QUEENAN: It's taking a long</p> <p>9 time to say that she didn't sign the letter.</p> <p>10 It's taking a long time to say that there is</p> <p>11 not a date on the letter. There's not a date</p> <p>12 on the letter. We can see that.</p> <p>13 MR. CASTOR: We took a long time to</p> <p>14 demonstrate that we have no idea where the</p> <p>15 letter came from.</p> <p>16 MR. QUEENAN: And that's why I want</p> <p>17 to try to solve that problem. The best way</p> <p>18 to solve that problem is to go to the horse's</p> <p>19 mouth.</p> <p>20 DR. DALY: Mr. Castor, I appreciate</p> <p>21 it. Please.</p> <p>22 We are going to go ahead with the</p> <p>23 cross examination. We understand that you</p> <p>24 dispute the letter, its author, its date,</p>	<p style="text-align: right;">Page 56</p> <p>1 Doctor, Dr. Tedaldi, and not myself. There were</p> <p>2 minutes taken. I don't know what those minutes</p> <p>3 are at hand at this point in time. But, again, we</p> <p>4 can probably provide you with those minutes taken</p> <p>5 when interviewed Dr. Cruz.</p> <p>6 Q. But Dr. Cruz is not here today?</p> <p>7 A. No.</p> <p>8 Q. And you did not give this to us in</p> <p>9 advance of the hearing?</p> <p>10 A. Did not give what, this?</p> <p>11 Q. Dr. Cruz, his information.</p> <p>12 A. No.</p> <p>13 Q. Did Dr. Cruz corroborate with you that</p> <p>14 this event occurred?</p> <p>15 A. No, Dr. Cruz did not -- at his testimony</p> <p>16 he did not -- again, as the summary of the letter</p> <p>17 presented to you at the conclusion of the</p> <p>18 investigation suggested, Dr. Cruz was not present</p> <p>19 personally a witness to the things that Dr. Brown</p> <p>20 alleges in her document but. . .</p> <p>21 Q. Do you see in the fifth line of the</p> <p>22 fourth paragraph, "He stopped me and Dr. Cruz.</p> <p>23 Dr. Weinik spoke in a loud voice."</p> <p>24 Go ahead. Do you see that?</p>
<p style="text-align: right;">Page 55</p> <p>1 etc. So we will take all that under</p> <p>2 consideration. I thank you for that.</p> <p>3 Dr. Weinik, please go ahead.</p> <p>4 BY DR. WEINIK:</p> <p>5 Q. Dr. Cowell, when you first presented</p> <p>6 this you told me that there's no corroborated</p> <p>7 evidence in the testimony for this; is that</p> <p>8 correct?</p> <p>9 A. I'm sorry, when I presented it to you?</p> <p>10 Q. When you had the opportunity to have</p> <p>11 this and you investigated it.</p> <p>12 DR. DALY: I am not sure I</p> <p>13 understand the question actually, Dr. Weinik.</p> <p>14 MR. QUEENAN: Can legal counsel</p> <p>15 help clarify?</p> <p>16 MR. CASTOR: We will move on.</p> <p>17 BY DR. WEINIK:</p> <p>18 Q. Dr. Cowell, in this letter there is a</p> <p>19 mention of Dr. Ernesto Cruz?</p> <p>20 A. Yes.</p> <p>21 Q. Where is your documentation of your</p> <p>22 interview of Dr. Cruz related to this letter, to</p> <p>23 this event?</p> <p>24 A. Dr. Cruz was interviewed by the Panel</p>	<p style="text-align: right;">Page 57</p> <p>1 A. Yes, I see that.</p> <p>2 Q. And Dr. Cruz did not remember that or</p> <p>3 corroborate that?</p> <p>4 A. Yes. To be perfectly transparent, Dr.</p> <p>5 Cruz was indifferent at the interview. He felt a</p> <p>6 little awkward being involved in it. He felt</p> <p>7 awkward in a lot of the concerns with what was</p> <p>8 going on in the department and that at times he</p> <p>9 felt like he was caught in the middle of a lot of</p> <p>10 the concerns that were being expressed.</p> <p>11 Q. So you felt that that was not helpful to</p> <p>12 your concerns and you didn't turn it over to us;</p> <p>13 is that right?</p> <p>14 A. Dr. Cruz's testimony?</p> <p>15 Q. Yes.</p> <p>16 A. Well, Dr. Cruz's testimony did not</p> <p>17 provide much support one way or the other. I</p> <p>18 didn't think personally that it would have lead</p> <p>19 relevance to your interest or the Panel's</p> <p>20 interest.</p> <p>21 Q. So Dr. Cowell --</p> <p>22 A. Yes.</p> <p>23 Q. -- this came from Dr. Brown, if it did</p> <p>24 really come from Dr. Brown. And she says Cruz was</p>

<p style="text-align: right;">Page 58</p> <p>1 there and you interview Cruz. Do you not think it 2 would be biased of you to not provide me with that 3 testimony of his? 4 A. Not really. I think that Dr. Cruz is 5 one line item amongst a much larger body of work 6 that was expressed in Dr. Brown's letter. So to 7 single out Dr. Cruz, and again, as I already 8 admitted earlier that his testimony didn't support 9 one way or the other. And you can see again in 10 the letter that we submitted to you is it's 11 clearly stated. If you go back to my -- to the 12 letter I presented to you it says that I reviewed 13 the complaint and evidence provided and determined 14 that there's insufficient evidence to support all 15 of the individual allegations. 16 So Dr. Cruz is a witness to one 17 allegation, again, as I stated there which I felt 18 as though was a fair assessment, however, that we 19 were sued that you are responsible in some part 20 to unwelcome intrusion into Dr. Brown's space. 21 Q. Dr. Cowell, do you realize that Dr. Cruz 22 is the only person in this letter that could have 23 witnessed her complaint and backed up her letter? 24 A. I understand that Dr. Cruz is mentioned</p>	<p style="text-align: right;">Page 60</p> <p>1 it's a problem with Dr. Cruz. Is he one of 2 your witnesses? 3 MR. CASTOR: No. 4 MR. QUEENAN: Okay. I just want to 5 know because I'm trying to process this so I 6 know what's coming next. I'm trying to put 7 all these little ducks in a row in my head. 8 DR. DALY: Dr. Weinik, just in the 9 interest of time, let's go ahead and proceed 10 if we could. 11 MR. QUEENAN: So we understand your 12 point, that we don't know if this is her 13 letter, we don't know what the date is, we 14 don't know who wrote the letter and we don't 15 know that Dr. Cruz did or didn't corroborate 16 but it sounds like did and did not, didn't 17 say anything, kind of sounds like he was 18 neutral. 19 MR. CASTOR: Well, there can't be 20 any neutral. He either agrees that that 21 happened or he doesn't know. 22 MR. QUEENAN: Or he says that I was 23 present but I wasn't paying attention. 24 MR. CASTOR: That's not</p>
<p style="text-align: right;">Page 59</p> <p>1 in her letter and I understand that Dr. Cruz did 2 not collaborate either for or against the concern 3 expressed by Dr. Brown. 4 DR. DALY: Dr. Cowell, did you 5 provide -- Dr. Queenan was asking did you 6 provide this letter from Cora Brown, alleged 7 from Cora Brown to Dr. Weinik previously? 8 DR. COWELL: Yes. 9 MR. QUEENAN: So you could have 10 called Dr. Cruz as a witness today? 11 I don't understand this whole 12 thing. I'm not a lawyer. I'm trying to 13 figure out what is going on. 14 MR. CASTOR: Well, I am a lawyer 15 but I don't know what all this is going on. 16 MR. QUEENAN: Fair enough. Good, 17 so we are all in the same boat. 18 So my concern is now that Dr. Cruz 19 may or may not have corroborated this story 20 and we are trying to figure that out. 21 Did we try -- you didn't want Dr. 22 Cruz here. 23 DR. COWELL: No. 24 MR. QUEENAN: You clearly think</p>	<p style="text-align: right;">Page 61</p> <p>1 corroborating. You either corroborate or 2 don't. 3 DR. COWELL: Well, I wouldn't -- 4 MR. QUEENAN: But it's still it's 5 not taking one -- what I am trying to point 6 out here is that's not taking one side or the 7 other. That's like I do often. I'm walking 8 along with my chairman, someone stops to talk 9 to him, I don't pay any attention to what 10 they are saying to him. It has nothing to do 11 with me. 12 DR. DALY: So let's just try to go 13 ahead if we can. 14 A. I think that's an important part. I 15 would have welcomed Dr. Cruz if we thought his 16 testimony as a witness would it be relevant. I 17 have no objections at all. I would be happy to 18 cross examine Dr. Cruz and substantiate again what 19 I said earlier is that he felt a little bit 20 trapped in the ongoing of a lot of issues that 21 were happening in the department, issues that are 22 unrelated to these allegations that I don't want 23 to take the committee's time with going through. 24 DR. DALY: Dr. Weinik, why don't</p>

<p style="text-align: right;">Page 62</p> <p>1 you go ahead, please.</p> <p>2 BY DR. WEINIK:</p> <p>3 Q. Dr. Cowell, Dr. Brown gives a statement</p> <p>4 that she was body shamed at someone's wedding.</p> <p>5 Did you get any other corroborating testimony</p> <p>6 about that other than Dr. Brown's?</p> <p>7 A. No, I did not.</p> <p>8 Q. Let's go to Tab 8. So when was the</p> <p>9 coaching memo submitted, Dr. Cowell?</p> <p>10 A. January 23, 2018. You can see it on the</p> <p>11 last page, Page 6.</p> <p>12 Q. So none of this progress was given to</p> <p>13 you on that date -- until that date, correct?</p> <p>14 A. The progress was sent to Dr. Kaiser, the</p> <p>15 Dean, and your immediate supervisor.</p> <p>16 Q. In writing or orally?</p> <p>17 A. I can't tell you.</p> <p>18 Q. Dr. Cowell, you selected certain</p> <p>19 sections to read here today?</p> <p>20 A. Yes, sir.</p> <p>21 Q. May I turn your attention to a few</p> <p>22 different things?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Dr. Saccomandi -- Ms. Saccomandi</p>	<p style="text-align: right;">Page 64</p> <p>1 talks about my participation further along the way</p> <p>2 in this cycle?</p> <p>3 A. I'm sorry.</p> <p>4 Q. Further through the cycle.</p> <p>5 A. No, I'm sorry. Tell me where again.</p> <p>6 Q. "I was very. . ."</p> <p>7 A. "I was very surprised at the progress</p> <p>8 and the preparation of Dr. Weinik for the meeting</p> <p>9 and shared my surprise with him. I told him that</p> <p>10 I was not expecting him to have made that</p> <p>11 progress. We committed to the following next</p> <p>12 steps."</p> <p>13 Q. Go ahead.</p> <p>14 A. "He would support the attendance of his</p> <p>15 team at the development event he assigned. He</p> <p>16 would set up a schedule in the new year that would</p> <p>17 include meeting through March on his goals and</p> <p>18 development plan. He would attend all leadership</p> <p>19 sessions for chairs as well as the TUH Leadership</p> <p>20 Academy."</p> <p>21 Q. Would you agree with me that that shows</p> <p>22 progress in participation in that process of</p> <p>23 counseling?</p> <p>24 A. If you want my opinion, as I read</p>
<p style="text-align: right;">Page 63</p> <p>1 suggested that there were numerous cancellations?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Did you take -- and you seemed to</p> <p>4 suggest that that was my non interest in going.</p> <p>5 Is that what you are saying?</p> <p>6 A. No. I seem to relay the fact that she</p> <p>7 indicated in her report that that was her</p> <p>8 impression.</p> <p>9 Q. Right. But we don't know why it is that</p> <p>10 I didn't go; is that correct?</p> <p>11 A. I can only tell you what Ms. Saccomandi</p> <p>12 said in the report. I did interview her and --</p> <p>13 when she submitted the report.</p> <p>14 Q. So would you agree it's entirely</p> <p>15 possible there were significant and serious</p> <p>16 medical conditions for which I was going under</p> <p>17 evaluation for --</p> <p>18 A. Yes.</p> <p>19 Q. -- that could have taken my time away</p> <p>20 from this?</p> <p>21 A. Yes.</p> <p>22 Q. Let me pull your attention to another</p> <p>23 paragraph that seems it got missed. Could you</p> <p>24 kindly read the eighth paragraph on Page 5 which</p>	<p style="text-align: right;">Page 65</p> <p>1 through starting from the top down throughout the</p> <p>2 entire page, that a lot of this doesn't lend</p> <p>3 itself for the purpose of the personal coaching,</p> <p>4 that it seemed that the attention was shifting</p> <p>5 towards leadership skill attainment and -- which,</p> <p>6 again, may have been an opportunity to capture</p> <p>7 during the sessions. But, again, in terms of a</p> <p>8 personal life coachings and in terms of</p> <p>9 professional conduct, I'm not impressed that this</p> <p>10 demonstrates that.</p> <p>11 Q. Let's move to Tab 10, Dr. Dua. The date</p> <p>12 on this e-mail is 1/16/18; is that true,</p> <p>13 Dr. Cowell?</p> <p>14 A. That's true.</p> <p>15 Q. You said that this came unsolicited; is</p> <p>16 that correct?</p> <p>17 A. I'm sorry?</p> <p>18 Q. This came unsolicited you said?</p> <p>19 A. Correct.</p> <p>20 Q. What evidence do you have that it came</p> <p>21 unsolicited?</p> <p>22 A. I don't know Dr. Dua. I didn't reach</p> <p>23 out to Dr. Dua. It was presented to me because</p> <p>24 this was -- this e-mail was received by Amber</p>

<p style="text-align: right;">Page 66</p> <p>1 Dzikowski who was one of the administrators of GME 2 and she presented it to Sue Coull who presented it 3 to the Medical Staff. 4 Q. Dr. Cowell, what investigation did you 5 do to assure that this came from Dr. Dua? 6 A. We reached out to her to come in and 7 give personal testimony to support the concerns 8 she expressed. She declined. 9 Q. You spoke with her? 10 A. I didn't personally speak to her, no. 11 Q. Who spoke with her? 12 A. Sue Coull. 13 Q. How do you know that it was the other 14 person on the phone? 15 A. I don't. 16 Q. And does Dr. Coull have a record of when 17 that call was made? 18 A. I don't know that. 19 Q. How would anybody know who was on the 20 other end of the phone? 21 A. In terms of whether she would come in 22 and give testimony? 23 Q. Yes. 24 A. I guess other than the obvious, you</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. What measures did you make to get her to 2 adopt this as true? 3 A. Other than reaching out on more than a 4 few occasions to have her come in and offer 5 testimony. 6 Q. Dr. Cowell, when you were given the 7 privilege and responsibility to prepare this 8 report you took it on, you took it on with a great 9 sense of responsibility, did you not? 10 A. Yes, I did. 11 Q. And you took -- you would do this -- you 12 recognize that this report has great implications 13 not only for the health of the community here at 14 the Temple Community but also to my existence as a 15 physician? 16 A. Absolutely I did. 17 Q. And you tell me you have done everything 18 that you could to put all the important 19 information that is out there in this report 20 because this is such a vital document? 21 A. Absolutely I did. 22 Q. And that other people would judge me by 23 this? 24 A. Absolutely I did.</p>
<p style="text-align: right;">Page 67</p> <p>1 know, who -- what phone number you used, whether 2 or not that can be tracked back to who the number 3 was assigned to. 4 DR. DALY: You're asking about the 5 phone call between Sue Coull -- 6 DR. WEINIK: Yes. 7 DR. DALY: -- and this Amber 8 person? 9 DR. COWELL: No, Sue Coull -- 10 MR. QUEENAN: It was apparently 11 where it came from, this is who it came to. 12 BY DR. WEINIK: 13 Q. So Dr. Cowell, Dr. Dua never came in and 14 adopted this statement as being true? 15 A. No, Dr. Dua, from what I was told, Dr. 16 Dua is very fearful of retaliation. 17 Q. What I asked, though, did she come in? 18 A. No. 19 Q. Did you go to her? 20 A. No. 21 Q. Do you know where she works? 22 A. I do know where she -- I knew where -- I 23 was shown where she works. I can't recall off the 24 top of my head.</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. QUEENAN: Can I ask a question? 2 Am I allowed to do that? 3 Did you actually examine Dr. Dua in 4 front of individuals at any point in your 5 career? 6 MR. CASTOR: Yes, there will be 7 evidence later on that. 8 MR. QUEENAN: Okay. Because that's 9 part of the thing. So let's not -- I think 10 again if we have to move on passed the non 11 signed letter we can understand that we don't 12 know whether Dr. Dua -- 13 DR. COWELL: May I continue this 14 train of thought? 15 MR. CASTOR: Or that the 16 allocations are true but there's no effort to 17 corroborate. 18 BY DR. WEINIK: 19 Q. Dr. Cowell, did Temple University put 20 any restrictions on you or any individual at 21 Temple University either encourage you to look 22 into this more or look into this less to benefit 23 me or to hurt me or to limit you in any way to 24 doing this investigation?</p>

<p style="text-align: right;">Page 70</p> <p>1 A. We, again, made numerous attempts to 2 reach out to -- am allowed to speak to -- he 3 speaks to me. 4 DR. DALY: Sure, you can speak to 5 him, he will speak to you, absolutely. 6 A. Again, through the numerous attempts to 7 get her to -- 8 BY DR. WEINIK: 9 Q. There were absolutely numerous attempts 10 -- 11 DR. DALY: Let him finish, please. 12 Go ahead. 13 DR. WEINIK: Sorry. 14 A. There were numerous attempts to get her 15 to collaborate this letter that she wrote. We -- 16 one of the attempts resulted in Mr. Wright 17 receiving a phone call from an individual that 18 qualified herself as a lawyer but not acting in a 19 legal capacity but more in a friend capacity and 20 that she wanted to express the serious and deep 21 concerns that Dr. Dua had about repercussions 22 because of your extensive notoriety amongst -- in 23 the PM&R community. And because of that concern 24 about her career, implications on her career, that</p>	<p style="text-align: right;">Page 72</p> <p>1 Mr. Weinik, did you have anything 2 further that you want to question Dr. Cowell? 3 DR. WEINIK: Yes. 4 DR. DALY: As I said, we are going 5 to need to move along with all of this. I am 6 trying to be patient but I want to move 7 along. 8 MR. CASTOR: Let me do the 9 questioning and it will move along. 10 DR. DALY: Mr. Castor, thank you 11 very much. If you remain quiet I would 12 appreciate it except for your consultation 13 with your client. 14 MR. QUEENAN: For clarification, 15 though, I mean what do you mean when any of 16 this stuff occurred other than kind of a 17 global period? Because I don't think that 18 people are going to remember day-to-day. I 19 don't know that I can remember day-to-day 20 from a few years ago, yesterday, four days 21 ago. But PGY-2, PGY-3. We are going to say 22 that this is actually Dr. Dua, which I know 23 we are still arguing that problem, but that's 24 the years they occurred, her PGY-2 year, her</p>
<p style="text-align: right;">Page 71</p> <p>1 she was terrified in regard to coming in to give 2 personal testimony. And so she was at that time 3 trying to maintain anonymity. 4 DR. DALY: Dr. Weinik, we are going 5 to have to move this along. It's 7:00. 6 DR. WEINIK: Yes, we will move on. 7 BY DR. WEINIK: 8 Q. Where in the e-mail say that any of 9 these events occurred? 10 A. The e-mail is what you see. I don't 11 have any -- this is the complete submission that 12 she provided to us. 13 MR. CASTOR: No, it's not because 14 it's missing the name at the top. 15 A. Well, okay. The name was, from what I 16 understood, again, with her anonymity, this was 17 initially presented but at any time you could have 18 asked the author of the article and we would have 19 given it and we were prepared to do that. But you 20 never asked who authored it. 21 MR. CASTOR: Mr. Chairman, I have 22 to object. There's no procedure that I saw 23 for this. 24 DR. DALY: Thank you, Mr. Castor.</p>	<p style="text-align: right;">Page 73</p> <p>1 PGY-3 year. So we have a year ballpark and 2 then this grand rounds, whatever it is or 3 whatever it was, that day has got to be 4 somewhere written down I would think. That's 5 one of those things that if you ask us when 6 this person was examined in front of a group 7 and there would be a day, a grand round day, 8 we can find these dates. What is the, I 9 guess what's the purpose of knowing those 10 specifics dates? Why, why do we need to know 11 those? 12 DR. DALY: Joe, we'll just address 13 it to Dr. Weinik. Dr. Weinik, if you have an 14 answer to Joe, fine as to the relevance here. 15 If not, please question Dr. Cowell further 16 and we will finish up your cross examination. 17 DR. WEINIK: Dr. Queenan, if I knew 18 the exact date, if I knew when any of these 19 episodes in any of the documentation here 20 presented today, if I knew when they occurred 21 I would be able to go to PCOM for the 22 examination and see and get tapes of this. 23 This examination, this examination, 24 and I will present this later, was conducted</p>

<p style="text-align: right;">Page 74</p> <p>1 in a theater setting with examination tables, 2 with video and audio. We projected this so 3 that our students and residents could see 4 their demonstration better. Everything was 5 loud, everything was visible. 6 MR. QUEENAN: And recorded? Do we 7 know that for a fact? 8 MR. CASTOR: We don't know for a 9 fact. 10 DR. WEINIK: We don't know. 11 DR. DALY: Dr. Weinik, anything 12 further for Dr. Cowell? 13 DR. WEINIK: Yes. 14 BY DR. WEINIK: 15 Q. So one of the reasons that we wanted to 16 know, the incident occurred in 2012 and 2014 but 17 it was not until 2018 that this letter was 18 authored. 19 MR. CASTOR: You want the 20 significance of why. 21 A. From the lead up that was told to us 22 that there was an incident where a patient was 23 being examined, that one of the residents felt 24 uncomfortable, and somehow -- again, I don't have</p>	<p style="text-align: right;">Page 76</p> <p>1 right away and asked if I was okay." 2 Did you make any effort to find out 3 who that was? 4 A. No, I did not. 5 Q. Did Dr. -- and then on the fourth line 6 up it says, "I went home. I called my sister and 7 another co-resident." 8 Did you make any effort to find out 9 to speak to her sister or the other resident? 10 A. No, I did not. 11 DR. DALY: Anything further, 12 Dr. Weinik? 13 DR. WEINIK: Yes. 14 DR. DALY: Anything further, 15 Dr. Weinik? 16 DR. WEINIK: Let me check with 17 counsel. 18 DR. DALY: Sure. 19 MR. QUEENAN: I have a 20 clarification question. 21 DR. DALY: Joe, you have to speak 22 up loud enough because all of this goes on 23 the record. 24 MR. QUEENAN: Did we contact</p>
<p style="text-align: right;">Page 75</p> <p>1 the specifics or knowledge of how Dr. Dua became 2 aware of this. And from the report that was given 3 to me, she was upset to the point of feeling like 4 she had picked up concerns that had been -- that 5 she desired to express that were long overdue and 6 spontaneously elected to write and submit this 7 letter. 8 BY DR. WEINIK: 9 Q. And you don't know how she found that 10 out, do you? 11 A. No, I do not. 12 Q. In Dr. Dua's letter on the bottom 13 paragraph of the first page she had one patient 14 that he saw on his list. Did you ever find -- 15 take the effort to find out who that patient was? 16 A. I'm sorry, let me just. 17 Q. Last paragraph, first line. 18 DR. DALY: You are talking about 19 Page 1 on that. 20 A. He said he -- no, I did not. 21 BY DR. WEINIK: 22 Q. Dr. Dua also has on Page 2 in the first 23 paragraph in the middle of the page but the sixth 24 line up it says, "A male resident came up to me</p>	<p style="text-align: right;">Page 77</p> <p>1 anybody that might be able to corroborate 2 this whole grand rounds or this examination 3 on our side to try to find out if this was a 4 male, female, chief resident at that time. 5 DR. COWELL: No. Again, this is 6 going back during her period here, 2012 to 7 2014. It would have been probably difficult, 8 if not impossible, to track down, 9 particularly the fact that Dr. Dua did not 10 submit personal testimony to be able to 11 investigate who she was referring to. 12 MR. CASTOR: And Mr. Chairman, we 13 do have eyewitness here to that event, so we 14 have tracked them down. 15 DR. DALY: Dr. Weinik, anything 16 further for Dr. Cowell? 17 DR. WEINIK: Not at this time. 18 DR. DALY: Thank you. Could we get 19 Dr. Tedaldi in here? 20 Thanks very much for being with us. 21 --- 22 DR. DALY: Ellen, just for the 23 record would you state your name, please? 24 THE WITNESS: Ellen Tedaldi,</p>

<p style="text-align: right;">Page 78</p> <p>1 T-E-D-A-L-D-I.</p> <p>2 ELLEN TEDALDI, M.D., after having</p> <p>3 been first duly sworn, was examined and</p> <p>4 testified as follows:</p> <p>5 ---</p> <p>6 EXAMINATION</p> <p>7 ---</p> <p>8 DR. DALY: Dr. Cowell, please</p> <p>9 proceed.</p> <p>10 BY DR. COWELL:</p> <p>11 Q. Thank you, Dr. Tedaldi, for being so</p> <p>12 patient with this proceeding.</p> <p>13 I wanted to make mention of the</p> <p>14 fact that you and I were co-responsible for the</p> <p>15 investigation involving the concerns expressed by</p> <p>16 various parties about unprofessional conduct by</p> <p>17 Dr. Weinik. I briefed this committee on the</p> <p>18 events leading up to the start of the meeting with</p> <p>19 myself, Sue Coull and Dr. Weigers and the</p> <p>20 submission of the written formal complaint by Dr.</p> <p>21 Brown. And from that point on you and I solicited</p> <p>22 a number of witnesses to come in and offer</p> <p>23 testimony regarding the allegations and comments</p> <p>24 or concerns that may have relevance to the</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Right. And then this was -- so as part</p> <p>2 of the Complaint, the Medical Staff asked to meet</p> <p>3 with her and hear about her letter.</p> <p>4 Q. Correct.</p> <p>5 A. In that letter, just to provide some</p> <p>6 summary, she talked about behaviors of Dr. Weinik</p> <p>7 that she wanted us to be aware of. And I will</p> <p>8 just cite a couple of them from that lettered.</p> <p>9 She was in the residents lounge, was trying to</p> <p>10 leave. He was blocking her way, not allowing her</p> <p>11 to leave. She made comment about being at a</p> <p>12 wedding with a resident where he was commenting on</p> <p>13 her body and sexy dress, commented that she was</p> <p>14 too skinny and anorexic, talked about a hallway --</p> <p>15 she was citing several events. She was talking</p> <p>16 about in the hallway with -- when they encountered</p> <p>17 Dr. Weinik she was with Dr. Cruz. Dr. Weinik</p> <p>18 started to ask her various personal questions</p> <p>19 about why her last name was Brown and not her</p> <p>20 husband's last name. Are you married or divorced,</p> <p>21 were you adopted, and started commented on her</p> <p>22 attire as not appropriate for work.</p> <p>23 She comments in the letter that she</p> <p>24 felt violated and uncomfortable and wanted further</p>
<p style="text-align: right;">Page 79</p> <p>1 concerns expressed as well. And so we talked a</p> <p>2 little bit about the --</p> <p>3 DR. DALY: Dr. Cowell, would you</p> <p>4 just -- if you don't mind.</p> <p>5 BY DR. COWELL:</p> <p>6 Q. So would you share with us the</p> <p>7 impression that the concerns expressed by Dr.</p> <p>8 Brown in reference to the letter submitted?</p> <p>9 A. Okay. So just so I understand the</p> <p>10 temporal things, we are talking about the letter</p> <p>11 written on March 2, 2017?</p> <p>12 Q. Yes. I think it was earlier than that,</p> <p>13 this letter from Dr. Cora Brown.</p> <p>14 MR. CASTOR: There's no date.</p> <p>15 A. Well, there was a -- she had apparently</p> <p>16 gone previously to meet with Sue Coull after she</p> <p>17 had had a conversation with Dr. Maitin. I'm just</p> <p>18 trying to get the temporal sequence. So Dr. Brown</p> <p>19 had originally gone to Sue Coull after she had a</p> <p>20 conversation with Dr. Maitin.</p> <p>21 BY DR. COWELL:</p> <p>22 Q. And then she submitted the formal --</p> <p>23 A. Then she submitted a letter.</p> <p>24 Q. On 2/28/17?</p>	<p style="text-align: right;">Page 81</p> <p>1 action from GME on his sexually inappropriate</p> <p>2 comments and behavior. So that was the -- those</p> <p>3 were extractions from the letter that she sent to</p> <p>4 us.</p> <p>5 Q. Thank you. And follow-up investigation,</p> <p>6 what was your impression of the diligence we paid</p> <p>7 to soliciting individuals to lend testimony to</p> <p>8 validate her dispute her concerns?</p> <p>9 A. Yes, on this first letter we had spoken</p> <p>10 with her, we spoke to Dr. Weinik, and felt at that</p> <p>11 point that we needed to -- there was not enough at</p> <p>12 that point to take the matter further. We felt</p> <p>13 that it needed to be on the level of a collegial</p> <p>14 intervention and to speak with him and recommend</p> <p>15 that he seek some professional coaching and</p> <p>16 counseling as there were concerns about this type</p> <p>17 of interaction.</p> <p>18 Q. During our investigation do you feel</p> <p>19 that we showed bias either way in trying to</p> <p>20 establish some substance to either support or</p> <p>21 dispute the concerns expressed?</p> <p>22 A. Bias that -- you mean towards --</p> <p>23 Q. Dr. Weinik, that he did or didn't was a</p> <p>24 subject of some of these concerns.</p>

<p style="text-align: right;">Page 82</p> <p>1 A. No, I think that they were being raised 2 and there were obviously the previous ones to Sue 3 Coull for granatum of education. He was going to 4 be -- you know, in his chair position that he 5 really needed to have some counseling so this 6 could be addressed and prevented and certainly to 7 get these comments into some sort of context that 8 it would be in his best interest to seek some 9 professional coaching.</p> <p>10 Q. Is --</p> <p>11 A. In other words, I don't think there was 12 a bias. I mean, if anything, it was recognition 13 that if there are these comments you really need 14 to look at making sure that. . .</p> <p>15 Q. And in the final statement that we wrote 16 and submitted to Dr. Kaiser and Dr. Weigers and 17 subsequently to Dr. Weinik, do you feel as though 18 that it reflected a fair assessment of what we 19 felt we were subject to and the Action Plan that 20 we submitted? Is there any second thoughts about 21 any of that action?</p> <p>22 A. No, I would still make the same 23 recommend -- I would have us make the same 24 recommendation.</p>	<p style="text-align: right;">Page 84</p> <p>1 letter along with your interaction to 2 Dr. Weinik around that time, in March or so 3 of 2017?</p> <p>4 THE WITNESS: Yeah, because usually 5 the physician if they are -- have a complaint 6 so they are allowed to look at the complaint.</p> <p>7 DR. DALY: So Dr. Weinik saw the 8 letter back in March or so of '17, March or 9 April of 2017. I see.</p> <p>10 And you asked -- or did you ask 11 Ms. Brown -- Dr. Brown if she would provide 12 any testimony at the Medical Staff Executive 13 Committee hearing?</p> <p>14 THE WITNESS: No, because at this 15 point we were really in -- you know, our 16 usual process is we investigate the 17 complaint, we talk to the complainant and 18 ask, you know, if there are any other -- if 19 there was a witnessed event, then we may 20 bring in some of the other people who were 21 there just to either corroborate or refute 22 what was there.</p> <p>23 DR. DALY: All right.</p> <p>24 THE WITNESS: At that point it was</p>
<p style="text-align: right;">Page 83</p> <p>1 DR. DALY: Let me ask a moment. 2 Did you provide this letter from, essentially 3 from Cora Brown, was there any question in 4 your mind that this letter that says Cora 5 Brown was not from Cora Brown?</p> <p>6 THE WITNESS: No, I had no reason 7 because we spoke to Dr. Brown herself.</p> <p>8 DR. DALY: And did she verbally to 9 you express the same things that were in the 10 letter?</p> <p>11 THE WITNESS: Oh, yes, yes.</p> <p>12 DR. DALY: All right. And about 13 when did that occur, give or take? Not an 14 exact date but what month would we be talking 15 about, what year?</p> <p>16 THE WITNESS: Well, it was 17 submitted in March. Let's see, what do we 18 have? March of 2017, so it was shortly after 19 this.</p> <p>20 DR. DALY: After.</p> <p>21 THE WITNESS: Yes. Usually, I mean 22 our process is as soon as we get a complaint 23 we try and. . .</p> <p>24 DR. DALY: And did you provide that</p>	<p style="text-align: right;">Page 85</p> <p>1 not going to Medical Staff. It was for us to 2 do the evaluating.</p> <p>3 DR. DALY: It was a collegial 4 intervention.</p> <p>5 THE WITNESS: Right. I mean it was 6 still, at this point it was still in the 7 investigatory phase.</p> <p>8 DR. DALY: Thank you.</p> <p>9 Just another question that arose. 10 Dr. Cruz, in this letter it was mentioned 11 about a Dr. Cruz who apparently was also a 12 resident. Did you speak to Dr. Cruz at all?</p> <p>13 THE WITNESS: In that first 14 evaluation we did speak to Dr. Cruz.</p> <p>15 DR. DALY: And what was your 16 sense -- I don't need a word for word. What 17 was your sense of the interview with Dr. 18 Cruz? Did he, you think he corroborated what 19 was described here in this fourth paragraph 20 or --</p> <p>21 THE WITNESS: Yeah. I mean I think 22 he felt extremely, quite honestly, very 23 uncomfortable. He felt sort of caught in 24 between. This was -- I don't know that he --</p>

<p style="text-align: right;">Page 86</p> <p>1 you know, because some of this was from her 2 point of view. He didn't corroborate word 3 for word. I think he just -- my impression 4 in talking with him is that he really felt 5 torn in terms of making -- 6 MR. QUEENAN: Did he specifically 7 say it didn't happen? 8 THE WITNESS: No. 9 DR. DALY: He didn't say it did 10 and he didn't say it didn't. Is that what 11 you're -- 12 THE WITNESS: Yeah. 13 DR. DALY: Dr. Cowell, anything 14 further that you want to ask? 15 DR. COWELL: Yes. 16 BY DR. COWELL: 17 Q. So we touched base on Dr. Brown's 18 investigation. So we subsequently followed up on 19 another investigation with the concerns expressed 20 by Dr. Dua. Would you comment, likewise, on your 21 impression of the investigation we did and the 22 individuals we interviewed regarding the concerns 23 expressed by Dr. Dua? 24 A. Well, there were actually, at that time</p>	<p style="text-align: right;">Page 88</p> <p>1 letter we received from Dr. Dua? 2 A. Well, the senior resident, Phil Acevedo, 3 was concerned about the interactions that he 4 observed with Dr. Weinik and a female patient in 5 terms of sort of unnecessary exposure of the 6 patient's backside area during an exam and this 7 was a patient who was in the room with all male 8 physicians and he left because he felt very 9 uncomfortable with the, sort of the way the 10 examination was going and as part of that said 11 that there were -- there was a general feeling 12 among the PM&R residents that when there was a 13 young, attractive female Dr. Weinik took an 14 excessive amount of time, often had prolonged 15 examinations that were sort of they said, you 16 know, sort of "Weinik being Weinik" 17 characteristics. Those exams were very different 18 than with other patient types. 19 Q. And along with that characterization of 20 "Weinik being Weinik," one of the female residents 21 we interviewed also brought up -- would you share 22 with us the concerns that were brought by one of 23 the other female residents about a comment made to 24 her about her dress?</p>
<p style="text-align: right;">Page 87</p> <p>1 there were two. We had gotten them also from the 2 residents. So it was Dr. Dua's letter but then 3 almost simultaneously we also got the complaint 4 from the senior residents. 5 Q. Right. So there was actually something 6 I didn't touch on was that in -- along with Dr. 7 Dua's concerns there were residents that came to 8 us to express concerns and that's why we loosely 9 sort of made the connection because two things had 10 happened at the same time. 11 A. They happened like within a day, a day 12 or two of one another. 13 Q. The senior residents came and expressed 14 concern about the examination techniques that 15 were being had for what they construed as young, 16 attractive females that seemed to be an excessive 17 -- 18 DR. DALY: Can you ask the 19 questions to Dr. Tedaldi to let her sort of 20 describe what is happening, please? 21 DR. COWELL: I apologize. 22 BY DR. COWELL: 23 Q. So can you connect those concerns 24 expressed by the residents and the timing of the</p>	<p style="text-align: right;">Page 89</p> <p>1 A. Yeah. We were interviewing several of 2 the PM&R residents and this was Dr. Byas, B-Y-A-S, 3 who was also stating that there was a -- generally 4 felt to be a difference in the nature of the exams 5 provided to female patients. 6 And she apparently showed up one 7 day wearing a black dress and Dr. Weinik commented 8 "There are only certain times a girl wears a 9 little black dress and one of those times is when 10 she is on the walk of shame." 11 Q. And as you had to describe to me, could 12 you describe to me what the "walk of shame" 13 indicates? 14 A. Generally it's reference to someone who 15 shows up with clothing they may have worn before 16 with the presumption that there was some sort of a 17 sexual or other encounter that occurred the 18 evening before. And it's sort of a terminology 19 that it's something that happened that she showed 20 up basically the walk of shame, that you're coming 21 in the same clothing you wore the night before. 22 Q. And could you also share with us another 23 one of the folks we interviewed, Mrs -- I'm sorry, 24 Amber, what her input was?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. Amber Dzikowski. She is the 2 administrator in the PM&R Department and both in 3 the earlier comments with Sue Coull and now she 4 talked about having to do things like outfit 5 checks when she would meet with Dr. Weinik to make 6 sure that there was not any part of her chest that 7 was exposed, that he was a little overly personal 8 and overly friendly in some of the conversations 9 and, in fact, had called her one time when she 10 left to go home and asked, you know, are you okay, 11 are you pregnant. And she felt there was at times 12 a little too personal commentary. But mainly she 13 was also concerned many times about her outfits, 14 whether they would be exposing her chest. 15 Q. And so would you, your estimation, would 16 you see that -- suggest that there was a pattern 17 of concerns that were expressed by -- and 18 consistency by all the folks that seemed to 19 suggest sexual innuendos and comments and things 20 that gave them a sense of discomfort? 21 A. Yeah. I mean we did five residents and 22 each of them did say there was a general consensus 23 that Dr. Weinik spent a fair amount of time, much 24 more with young, attractive females doing the</p>	<p style="text-align: right;">Page 92</p> <p>1 that Dr. Weinik does and said "does seem to choose 2 female residents for patient simulated demos," and 3 that was -- yeah, she commented. She said, "I was 4 a model. I didn't feel uncomfortable until the 5 residents pointed out what he was doing during the 6 exam." 7 DR. DALY: If I might ask, how many 8 residents did you actually interview in total 9 through this whole process that you were 10 investigating? 11 THE WITNESS: Four residents and 12 then faculty, Reed Williams and Amber, the 13 GME administrator. 14 DR. DALY: Four residents, one 15 faculty member and the administrator? 16 THE WITNESS: Right. And Reed 17 Williams we brought in because he was present 18 during this exam during which Phil Acevedo 19 had commented on the inappropriate -- 20 DR. DALY: And Phil -- Reed 21 Williams is who? 22 THE WITNESS: He's a PM&R faculty 23 member. 24 DR. DALY: I wasn't sure. At any</p>
<p style="text-align: right;">Page 91</p> <p>1 exams and often exams that were prolonged. 2 Q. And was that sentiment expressed by -- 3 we made attempts to interview senior residents, 4 particularly interviewed a few of the senior 5 residents, Nicholas Kenback and -- who shared with 6 us again jokes that were -- the residents do in 7 further collaboration of their concerns that the 8 "Weinik being Weinik" and just being -- "she just 9 got Weinik-ed"? 10 A. Yeah, he corroborated, you know, again 11 more time with female patients, more hands-on, 12 more thorough exams that may have been not 13 necessarily done with other patients. Chief 14 resident commented asking some fairly personal 15 questions of patients, like what are you doing 16 later tonight, exams were not inappropriate but 17 you definitely noticed a pattern and I would say 18 from the residents. 19 Q. And Katie Hatt, would those comments be 20 consistent with her testimony as well? 21 A. Right. And the other questions we had 22 asked because of the concerns raised in Dr. Dua's 23 note about using female residents as 24 demonstrations for the musculoskeletal workshop</p>	<p style="text-align: right;">Page 93</p> <p>1 time -- sorry for the interruption. 2 At any time was there ever a 3 complaint from a female patient, any time 4 during 2012 up through 2018? 5 THE WITNESS: What was told to us 6 by the resident and partly by Dr. Williams is 7 that this particular patient said she did not 8 want to be seen by Dr. Weinik again. 9 DR. DALY: Other than that -- 10 THE WITNESS: Other than that we 11 did not hear any other female. 12 DR. DALY: No other complaints came 13 to the hospital or -- 14 THE WITNESS: That came to our 15 attention. 16 DR. DALY: That you know. 17 THE WITNESS: Yes. 18 DR. LIN: How were the residents -- 19 how did you decide which residents to 20 interview? How does that process go about? 21 THE WITNESS: Usually when a 22 complaint comes into the Medical Staff Office 23 the description is -- you know, if it's an 24 event we find out who else was there at the</p>

<p style="text-align: right;">Page 94</p> <p>1 event. So in this case it was the two senior 2 residents. And then also because of the 3 previous -- the GME administrator had gone to 4 the GME office and had mentioned it. And 5 then we decided to start to interview some of 6 the other residents just to make sure there 7 wasn't anything in terms of a personal 8 nature. 9 DR. LIN: Of the four residents 10 that you interviewed it sounds like two of 11 them were involved or one of them was 12 involved? 13 THE WITNESS: Yeah, one of them was 14 during the examine. 15 DR. LIN: And then the other two 16 were just kind of randomly to get a sense of 17 the general tone? 18 THE WITNESS: Yeah. Well, they -- 19 the other, the two senior residents that we 20 did, Nicholas Kenback and Phil Acevedo, they 21 were, they were the ones that had gone to the 22 administrator with their concerns about 23 Dr. Weinik. 24 DR. LIN: And was there ever a kind</p>	<p style="text-align: right;">Page 96</p> <p>1 physical exam. 2 THE WITNESS: She said, "I didn't 3 necessarily feel uncomfortable until other 4 residents pointed out to me." 5 MR. ROGERS: Dr. Hatt. 6 THE WITNESS: Dr. Hatt. 7 DR. DALY: Ellen, if you could, so 8 you made this informal component of an 9 investigation, you made this investigation by 10 interviewing these four residents, the 11 faculty member, the administrator, et cetera. 12 Did that then lead to the collegial 13 intervention or that happened after the 14 collegial intervention? 15 THE WITNESS: The collegial 16 intervention was in 2017. It was the year 17 prior. And then -- I don't know if you have 18 gone into this. So the recommendation was 19 the coaching and then there was the interim. 20 So this came after that. 21 DR. DALY: And what led, in your 22 mind at least, what led from the collegial 23 intervention to the coaching and what led to 24 this component of the intervention?</p>
<p style="text-align: right;">Page 95</p> <p>1 of a process by -- and I recognize it's a 2 sensitive issue so the confidentiality part 3 is tough, but to get a general tone outside 4 of those folks who came forward with some 5 concerns? Was there kind of an effort to get 6 a sense of other -- 7 THE WITNESS: Yeah. So we -- those 8 were the other to the chief residents. So we 9 went to the chief resident, we went to some 10 of the other residents. I believe Kate, I 11 think she's a junior or first year. So we 12 wanted to try to get some of the residents to 13 see if this was -- 14 DR. LIN: Pervasive? 15 THE WITNESS: -- pervasive. 16 MR. QUEENAN: I may have missed 17 something. Did you not say that someone said 18 they weren't comfortable, that they were told 19 to be uncomfortable? That was one of the 20 comments that was made, one of the residents 21 said that they didn't feel comfortable when 22 someone said something? 23 DR. LIN: It was about a female 24 resident who was one of the models for the</p>	<p style="text-align: right;">Page 97</p> <p>1 THE WITNESS: The new complaints. 2 DR. DALY: And the new complaints 3 were from? 4 THE WITNESS: The residents and 5 then the letter from Dr. Dua. 6 DR. DALY: And the complaints from 7 the residents were elicited how? They just 8 spontaneously -- 9 THE WITNESS: They went via the GME 10 administrator and so then they came to our 11 attention. 12 DR. DALY: And that was verbal to 13 the GME administrator Sue Coull or some -- 14 THE WITNESS: I think they went 15 first to -- from my understanding they went 16 first to Amber and then she met with Sue 17 Coull. 18 DR. DALY: And that was a verbal 19 thing, the complaints by these other 20 residents? 21 THE WITNESS: Right. 22 DR. DALY: And so that then led to 23 your interviewing these residents? 24 THE WITNESS: Right, sort of a</p>

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1 reactivation, right.

2 DR. DALY: Plus then around this

3 time came this letter from Cora Brown?

4 THE WITNESS: Yes, because

5 usually -- what happened was we had Cora

6 Brown last year, recommended coaching for

7 Dr. Weinik. And then we had not heard

8 anything. He was in the process of the

9 coaching. And then these were new concerns

10 raised.

11 MR. QUEENAN: Did anyone speak to

12 Dr. Dua?

13 THE WITNESS: Personally?

14 MR. QUEENAN: Regarding the letter.

15 THE WITNESS: No, because she at

16 that time was not willing to come forward.

17 MR. QUEENAN: Did anyone speak to

18 Dr. Dua on the phone? I am just wondering if

19 you had any sense as to what prompted this

20 letter at this time.

21 THE WITNESS: Yeah. Well, I mean

22 her -- you have access to it, right?

23 DR. DALY: Her letter, yes.

24 THE WITNESS: So her opening thing

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1 is -- I don't know whether she felt sort of

2 timing-wise, you know, I don't want to put

3 words in her mouth, but sort of Me, Too

4 movement, you know, felt that he was --

5 MR. QUEENAN: You don't know what

6 specifically?

7 THE WITNESS: I don't know why that

8 day or that there was -- I can't say.

9 MR. QUEENAN: Great.

10 BY DR. COWELL:

11 Q. Dr. Tedaldi, do you remember Katie's

12 concerns about their responses to things that they

13 were uncomfortable with, that they were

14 intimidated because of their concerns about the

15 future regarding jobs after residency?

16 A. They had mentioned that they were aware

17 that they needed letters from Dr. Weinik and that

18 there was the incident with Phil Acevedo where he

19 texted back and said -- you know, because he was

20 out on a fellowship interview and had gotten a

21 text back that, you know, it's probably not a wise

22 idea that you are talking to this program director

23 because I know him and that others felt that they

24 really couldn't say anything because they needed

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1 letters. And Amber had commented that it was call

2 up and say -- Dr. Weinik would say take or don't

3 take this resident. And so, in other words, they

4 felt intimidated that they couldn't say anything

5 because they were not getting a letter of

6 recommendation.

7 MR. QUEENAN: I don't know where

8 this comes in since no one has mentioned

9 this. I have read this text message. Is

10 there going to be some sort of context this

11 gets put into? Because I don't understand

12 this text message, understand what the

13 importance of it is.

14 DR. DALY: This is what she's

15 referring to.

16 MR. QUEENAN: I know this is the

17 text you're referring to. So I don't know

18 who Dr. Furman --

19 THE WITNESS: Right, this is Phil

20 Acevedo, one of the senior residents who made

21 the complaint, right.

22 MR. QUEENAN: This is Phil Acevedo,

23 right, who sent the message. Who is

24 Dr. Furman?

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1 THE WITNESS: I believe he's

2 probably wherever he was interviewing.

3 MR. QUEENAN: Is that what it is?

4 I mean I'm just trying to --

5 MR. CASTOR: Doctor, we will

6 present evidence on this.

7 DR. DALY: Ellen, is there anything

8 further? Or Vince, is anything further you

9 wanted to ask Dr. Tedaldi about this, about

10 the investigation or people or interviews?

11 BY DR. COWELL:

12 Q. So I think from my perspective that's

13 everything, unless, Dr. Tedaldi, you have anything

14 further that you would like to comment that I

15 haven't asked you that you think is relevant to

16 these proceedings?

17 A. Yeah, I -- you already went over the

18 letter from Dr. Dua. Yes, okay. Yes. No, I

19 think at this point those are the interviews that

20 we completed.

21 Q. Just last but not least. Do you think

22 we did our best to conduct this in a fair and

23 unbiased way with no preconceived impressions or

24 biases towards anyone?

<p style="text-align: right;">Page 102</p> <p>1 A. Yeah. I mean I have been doing these 2 now in the Medical Staff office for many years and 3 I really do feel we just try, we really spend a 4 lot of time doing the evaluation piece and trying 5 to get as many voices in the investigation and not 6 to limit it. So we wanted to get a broader 7 picture from more than just the people who. . . 8 DR. DALY: Dr. Tedaldi, if I might 9 ask then subsequent to the investigation -- 10 there was the coaching, this new information 11 came to be, came to light to you and 12 Dr. Cowell, Medical Staff, Executive 13 Committee. You then did the investigation. 14 There was a Medical Staff Executive Committee 15 meeting -- 16 THE WITNESS: Yes. 17 DR. DALY: -- at which you provided 18 and Dr. Cowell provided this information. Is 19 that true? 20 THE WITNESS: Yes, it was given 21 to. . . 22 DR. DALY: And then the 23 recommendation from that meeting was that Dr. 24 Weinik be suspended?</p>	<p style="text-align: right;">Page 104</p> <p>1 Anything further? No, okay. 2 Dr. Weinik, would you cross 3 examine? And if possible, can we limit this 4 a little bit in time to just Dr. Tedaldi's 5 testimony that you heard? 6 --- 7 EXAMINATION 8 --- 9 BY DR. WEINIK: 10 Q. Dr. Tedaldi, you tried to interview all 11 people who might have been present during any 12 event; is that correct? 13 A. No, that particular -- for the event 14 related to the patient. 15 Q. For any event. 16 A. For any. I'm not sure I understand your 17 question. 18 Q. Did you make an effort to interview any 19 and all people who were present at any of the 20 events? 21 A. Well, the main event that we were 22 talking about where we interviewed was that 23 interview -- I mean the examination with the two 24 residents, with Reed Williams, Acevedo and the</p>
<p style="text-align: right;">Page 103</p> <p>1 THE WITNESS: Correct. 2 DR. DALY: All right. Anything 3 further? 4 DR. COWELL: No. We just wanted to 5 cap it off with a point that we hadn't made, 6 the point that we just presented to the 7 evidence to the Medical Staff Executive 8 Committee and the Medical Staff Executive 9 Committee made the decision. 10 DR. DALY: I understand. 11 MR. CASTOR: Mr. Chairman, you said 12 suspension but I understand that he's on 13 administrative leave. 14 DR. DALY: I was making that more 15 as a question rather than a statement. I was 16 asking that. So if it's not suspension, then 17 it was administrative leave. Or tell me or 18 tell us, if you would, what was the 19 consequence of the Medical Staff Executive 20 Committee decision? 21 DR. COWELL: It was a 22 recommendation for termination from the 23 Medical Staff Executive Committee. 24 DR. DALY: Thank you.</p>	<p style="text-align: right;">Page 105</p> <p>1 female patient. Not all events. I mean we 2 weren't -- I'm sorry. I just don't know what 3 you're saying all events. 4 MR. QUEENAN: I think they are 5 trying to clarify whether or not the Medical 6 Staff spent any time trying to kind of rehash 7 what happened back in 2012 with this whole 8 examination, who might have been present at 9 that point. 10 THE WITNESS: With Dr. Dua? 11 MR. QUEENAN: Was Dr. Dua at that 12 exam? 13 THE WITNESS: Well, because we have 14 no -- 15 MR. QUEENAN: Right, Dr. Dua was at 16 that exam. So back then did we try to reach 17 out to any other residents that might have 18 been present at that time? 19 THE WITNESS: Well, I think that 20 was part of our interviewing the residents. 21 MR. QUEENAN: Back then, 2012, '13? 22 THE WITNESS: No, because we would 23 have know idea who they -- I mean we wouldn't 24 go all the way back to 2012. And then also,</p>

<p style="text-align: right;">Page 106</p> <p>1 you know, we were still working on the 2 current. 3 MR. QUEENAN: I think that's their 4 question. 5 THE WITNESS: We didn't go back and 6 get people who were there at the 2012. 7 BY DR. WEINIK: 8 Q. Dr. Tedaldi, you go back all the way to 9 2012 but the complaint only occurred for Dr. Dua 10 in 2018. 11 A. Well, I'm sorry. That may be my -- 12 MR. QUEENAN: I said 2012 because 13 you asked -- maybe I misunderstood the 14 question. Apparently I messed that up. 15 You're asking did she interview anyone 16 involved in any of these incidents. This is 17 an incident that occurred sometime in 2012, 18 '13, '14. I'm not sure when. So I'm asking 19 if they went back there. She's not asking 20 that, I'm asking that because I thought that 21 was your question. Maybe it wasn't. 22 THE WITNESS: So the answer would 23 be no, we didn't go beyond that. 24 DR. DALY: I think that's a fair</p>	<p style="text-align: right;">Page 108</p> <p>1 of procedural objections for Dr. Weinik to 2 place on the record to preserve. Those would 3 take probably ten or 15 minutes to read. I'm 4 going to suggest that I be permitted to 5 attach that as an exhibit to our post hearing 6 brief and Mr. Wright seems to think that that 7 is a good idea. 8 MR. WRIGHT: We agree to that. 9 DR. DALY: That's fine. I agree as 10 well. 11 MR. CASTOR: But it will become 12 part of record by reference. 13 MR. WRIGHT: Yes, sir, we agree. 14 DR. DALY: Please, if you would 15 start to call your first witness. 16 DR. COWELL: If I may, just for the 17 record officially announce that the Medical 18 Staff rests its case. 19 DR. DALY: Thank you. 20 MR. CASTOR: Mr. Chairman, if I 21 might be heard one more time -- 22 DR. DALY: One more time. 23 MR. CASTOR: -- for a procedure 24 issue that might be of value. The questions</p>
<p style="text-align: right;">Page 107</p> <p>1 answer to a fair question. 2 Dr. Weinik, any other questions 3 that you have for Dr. Tedaldi? Dr. Weinik, 4 do you have any questions you have for Dr. 5 Tedaldi? 6 DR. WEINIK: We want to get into 7 our case. 8 DR. DALY: Great. So Dr. Tedaldi, 9 thank you very much. 10 (Witness excused.) 11 DR. DALY: I think with the 12 permission of my other two colleagues we are 13 going to take a bathroom break for about five 14 minutes and then we will come back and then 15 you can call your witnesses. We will go off 16 the record now. We are going to take a 17 five-minute break and we will come back. 18 (A brief recess was held at this 19 time.) 20 DR. DALY: We are ready to go on 21 the record. 22 MR. CASTOR: Thank you, 23 Mr. Chairman. In anticipation of the Temple 24 side finishing their case I had made a list</p>	<p style="text-align: right;">Page 109</p> <p>1 for Dr. Weinik for his witnesses are already 2 pre-written so they will move much more 3 quickly than we had before. 4 DR. DALY: Great. Go ahead, Dr. 5 Weinik. 6 GILBERT D'ALONZO, D.O., after 7 having been first duly sworn, was examined 8 and testified as follows: 9 --- 10 EXAMINATION 11 --- 12 BY DR. WEINIK: 13 Q. Dr. D'Alonzo, thank you for coming. 14 A. You're welcome. 15 Q. Briefly explain your career at Temple, 16 briefly. 17 A. I have been here 27, going on 28 years. 18 I started with the Division of Pulmonary and 19 Critical Care Medicine as a pulmonary critical 20 care doctor, now it's the Department of Forensic 21 Medicine and Surgery, involved in every aspect of 22 that division and department's activity, for many 23 years as the deputy director and until today 24 pulmonary critical care medicine.</p>

<p style="text-align: right;">Page 110</p> <p>1 Q. Was there ever a time when you were 2 involved on the administrative side for cases of 3 alleged misconduct by Temple doctors? 4 A. Yes. 5 Q. What can you tell me about that? 6 A. I was President of the Medical Staff, I 7 don't know if it was one or two years, and we had 8 several meetings where discipline was discussed 9 and various physician issues were presented and 10 outcomes were determined. 11 Q. Do you recall about when that was? 12 A. I forget when I was president. It would 13 be on my CV. It's probably eight, eight years 14 ago. 15 Q. Okay. 16 A. Something like that. I'm sorry, I 17 didn't review. I didn't know what any of these 18 questions were and I didn't review my CV 19 beforehand. 20 Q. What was your role in the cases of 21 alleged misconduct by Temple doctors back then? 22 A. I would be at the table often with other 23 members of the faculty and we would listen to the 24 entire process for both sides and try to make a</p>	<p style="text-align: right;">Page 112</p> <p>1 outside the hospital we've never had a social 2 relationship. 3 Q. Do you know others in the medical 4 community that also know me? 5 A. I know many people that know you. 6 Q. Would you say you and others in the 7 medical community know me well enough to have an 8 opinion concerning my character and integrity? 9 A. Absolutely. 10 Q. What is the opinion that you and others 11 in the medical community share of my character and 12 integrity? 13 A. I can certainly speak for myself and I 14 can only remember what other people have said. 15 But certainly for myself the highest level of 16 regard in terms of your character, both at a 17 medical level as well as a personal level within 18 the hospital. 19 I can attest further that two of my 20 wives, my first wife and my second wife have 21 received care from you with excellent results and 22 high regard for the care that you provided. One 23 of my daughters the same exact thing. I have 24 referred many patients to you for care, both</p>
<p style="text-align: right;">Page 111</p> <p>1 determination. Sometimes attorneys were present. 2 Probably, I was probably only involved with maybe 3 four to six cases over the whole time that I was 4 there, two or three serious cases, and 5 determinations were made as to what needed to be 6 done to either correct the situation or nothing 7 was done. 8 Q. During the period of time that you were 9 making recommendations concerning alleged 10 doctor misconduct did you ever see a case that 11 rose to the level of dismissal in your view? 12 A. Close. 13 Q. Close but not? 14 A. No dismissal, close. 15 Q. Did you ever recommend a doctor to be 16 dismissed for alleged misconduct during your time 17 involved with the process? 18 A. No. 19 Q. Do you know me? 20 A. Sure I know you. 21 Q. How long have you known me? 22 A. About 25 years. 23 Q. Would you say we are friends? 24 A. We are friendly at the hospital but</p>	<p style="text-align: right;">Page 113</p> <p>1 diagnostic and therapeutic intervention of the 2 musculoskeletal system with what I remember as 3 excellent outcome. And I have never heard 4 anything negative about you in any of the dealings 5 that I have had with my own patients, my own 6 family, and I have never heard anything negative, 7 only praise and good outcomes and excellent care 8 from the patients that I have referred to you. 9 Q. Would you -- are you familiar with the 10 allegations against me today? 11 A. Absolutely not. 12 Q. Are you familiar with the allegations 13 against me here today, though? 14 A. No. 15 Q. Oh, you're not? 16 A. No, not at all. And I have never asked 17 anybody, I have never inquired. 18 Q. Thank you, Dr. D'Alonzo. This is my 19 last chance to ask, to ask you before the Panel if 20 there's anything else you would like to add to 21 assist the Panel in coming to their determination? 22 A. Yes, I would. 23 I think Dr. Weinik has immense 24 value at our institution at the Temple Hospital as</p>

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1 well as our medical school. He is the go-to
 2 person to send patients to that have
 3 musculoskeletal complaints. He does incredible
 4 examinations, comes up with the results that are
 5 necessary and the treatment plans that are
 6 necessary. And I have known no one in the PM&R
 7 Department that meets his level of care and I have
 8 referred a lot of people to different doctors in
 9 that department. That's not to say that those
 10 doctors are bad or don't practice at a good level.
 11 Dr. Weinik practices at a much higher level. He's
 12 an incredibly valuable individual at our hospital.
 13 Q. Thank you, Doctor.
 14 A. You're welcome.
 15 DR. DALY: Dr. Cowell, any
 16 questions?
 17 DR. COWELL: No questions.
 18 DR. DALY: Any questions from
 19 anybody on the Panel?
 20 (No response.)
 21 DR. DALY: I have no questions.
 22 Thank you very much.
 23 THE WITNESS: Thank you very much.
 24 (Witness excused.)

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1 MR. QUEENAN: Before we move on, I
 2 do have a question. So no one is disputing
 3 the fact that there are people who have high
 4 regard and excellent physician, et cetera, et
 5 cetera. Is that what most of these witnesses
 6 are going to say because we'll just accept
 7 that as truth and yes, but that is -- you
 8 know, there are people who typically. So I
 9 don't want to go through a barrage of people
 10 who are going to say how great he is because
 11 everybody knows him. Nice guy, does good by
 12 his patients, yes, we accept it, we agree
 13 with it, but we don't need to have an hour
 14 and a half of that. If there's something
 15 specific that is going to come from people
 16 that's different, that's fine. I'm happy to
 17 hear as many of them. I am a neurosurgeon.
 18 I will be here until 2:00 in the morning. I
 19 don't care.
 20 But it's -- the point I'm trying to
 21 make here is that character witnesses are
 22 great but we need -- I mean there is a
 23 specific allegation here and you can be the
 24 most wonderful person in the world over here,

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1 you know, and shooting people in your free
 2 time.
 3 MR. CASTOR: Can I talk?
 4 DR. WEINIK: So let me talk.
 5 DR. DALY: Joe, thanks very much
 6 for that. I think, Dr. Weinik, what he is
 7 asking is the relevance of each of the
 8 witnesses that will come and if there are a
 9 series of character witnesses if you could
 10 truncate some of that a bit. If you,
 11 however, are going to have --
 12 DR. WEINIK: They are quite
 13 truncated.
 14 MR. CASTOR: There aren't any
 15 others. I'm trying to get you that.
 16 MR. QUEENAN: That's a simple
 17 answer.
 18 DR. DALY: Thank you very much. I
 19 appreciate it.
 20 Dr. Weinik, if you have some other
 21 witnesses let's call them and we will have
 22 them come in and we will go from there.
 23 ---
 24 DR. DALY: Thank you very much for

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1 coming. Would you state your name for the
 2 court reporter and be sworn in?
 3 THE WITNESS: My name is Jennifer
 4 Yu, Y-U.
 5 DR. DALY: Dr. Weinik.
 6 JENNIFER YU, M.D., after having
 7 been first duly sworn, was examined and
 8 testified as follows:
 9 ---
 10 EXAMINATION
 11 ---
 12 BY DR. WEINIK:
 13 Q. Dr. Yu, thank you for coming tonight.
 14 Do you know me?
 15 A. I do.
 16 Q. How do you know me?
 17 A. You were the Program Chair of my
 18 residency program.
 19 Q. Is there any other capacity that you
 20 know me?
 21 A. We have worked together covering
 22 inpatient floors at Temple.
 23 Q. So you have been with me when I examine
 24 patients?

<p style="text-align: right;">Page 118</p> <p>1 A. Yes.</p> <p>2 Q. About how many times would you say?</p> <p>3 A. I actually think I only worked with you</p> <p>4 for like three or four days over like a holiday</p> <p>5 weekend, but I have been around you otherwise.</p> <p>6 Q. Have you ever seen me engage in any</p> <p>7 conduct you thought was inappropriate with a</p> <p>8 patient?</p> <p>9 A. No.</p> <p>10 Q. Have you ever seen anything that made</p> <p>11 you think I spend more time with young female</p> <p>12 patients than I did with other patients?</p> <p>13 A. No.</p> <p>14 Q. Did I ever behave with you in a way that</p> <p>15 made you feel uncomfortable?</p> <p>16 A. No.</p> <p>17 Q. Did you ever see me engage in any</p> <p>18 conduct with other female residents that you</p> <p>19 thought would have made you feel uncomfortable?</p> <p>20 A. No.</p> <p>21 Q. Did anyone from Temple ever interview</p> <p>22 you about this case, about the testimony presented</p> <p>23 about me?</p> <p>24 A. Did anyone ever interview me?</p>	<p style="text-align: right;">Page 120</p> <p>1 inappropriate?</p> <p>2 THE WITNESS: No.</p> <p>3 MR. QUEENAN: Okay.</p> <p>4 DR. DALY: What is your role now?</p> <p>5 THE WITNESS: I'm a PGY-4 resident.</p> <p>6 DR. DALY: In PM&R.</p> <p>7 THE WITNESS: Yes.</p> <p>8 DR. DALY: So what level were you</p> <p>9 when you worked with Dr. Weinik those three</p> <p>10 or four days?</p> <p>11 THE WITNESS: I was a PGY-2.</p> <p>12 DR. DALY: So two years ago, give</p> <p>13 or take, or a year plus a little bit?</p> <p>14 THE WITNESS: Yeah, a year and</p> <p>15 some.</p> <p>16 DR. DALY: Okay.</p> <p>17 ---</p> <p>18 EXAMINATION</p> <p>19 ---</p> <p>20 BY DR. WEINIK:</p> <p>21 Q. Dr. Yu, just one other question.</p> <p>22 You were on service with me three</p> <p>23 or four days you stated. But you have been around</p> <p>24 me --</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. Did anyone from Temple ever interview</p> <p>2 you about my behavior?</p> <p>3 A. No.</p> <p>4 DR. WEINIK: That's it.</p> <p>5 DR. DALY: Dr. Cowell, any</p> <p>6 questions?</p> <p>7 DR. COWELL: No questions.</p> <p>8 DR. DALY: We have a couple of</p> <p>9 questions. Go ahead, Joe.</p> <p>10 MR. QUEENAN: You said you worked</p> <p>11 with him for three or four days. When were</p> <p>12 those three or four days?</p> <p>13 THE WITNESS: It was just weekend</p> <p>14 coverage for like Temple.</p> <p>15 MR. QUEENAN: You're saying three</p> <p>16 or four days at a time or just three or four</p> <p>17 days total?</p> <p>18 THE WITNESS: Oh, no, it was total.</p> <p>19 MR. QUEENAN: So a total of three</p> <p>20 or four days you spent with Dr. Weinik</p> <p>21 examining patients?</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. QUEENAN: Within those three or</p> <p>24 four days you never saw anything you felt was</p>	<p style="text-align: right;">Page 121</p> <p>1 A. Yes.</p> <p>2 Q. -- more frequently --</p> <p>3 A. Yes.</p> <p>4 Q. -- in the hospital than just those three</p> <p>5 or four days. And around other residents who were</p> <p>6 around me?</p> <p>7 A. Yes, yes.</p> <p>8 DR. DALY: We'll allow that. But</p> <p>9 again, your attorney has commented about how</p> <p>10 awkward the particular situation is tonight</p> <p>11 so let's not make it more awkward.</p> <p>12 Thank you very much Dr. Yu. We</p> <p>13 appreciate it.</p> <p>14 Do you have any questions?</p> <p>15 DR. LIN: I do. I have one more</p> <p>16 question.</p> <p>17 DR. DALY: I'm sorry.</p> <p>18 DR. LIN: So you yourself have</p> <p>19 never felt uncomfortable. Is there -- have</p> <p>20 you heard of any other comments or attitudes</p> <p>21 from your co-residents about Dr. Weinik?</p> <p>22 THE WITNESS: I have not, no.</p> <p>23 MR. QUEENAN: No, that's good.</p> <p>24 DR. DALY: Great. Thanks very</p>

<p style="text-align: right;">Page 122</p> <p>1 much. We appreciate it. 2 (Witness excused.) 3 --- 4 DR. DALY: Could you just state 5 your name for her and spell it? 6 THE WITNESS: Sure. My name is 7 Stephanie Li, spelled S-T-E-P-H-A-N-I-E L-I. 8 STEPHANIE LI, M.D., after having 9 been first duly sworn, was examined and 10 testified as follows: 11 --- 12 EXAMINATION 13 --- 14 BY DR. WEINIK: 15 Q. Thank you, Dr. Li, for coming tonight 16 and waiting so long. 17 Do you know me? 18 A. I do know you. 19 Q. How do you know -- how do we know each 20 other? 21 A. We were -- well, we have known each 22 other for about two years now. You were my 23 Program Director. I'm sorry, my chair, my chair. 24 And we worked together in clinic in March of this</p>	<p style="text-align: right;">Page 124</p> <p>1 A. Yes, actually. 2 Q. Was that patient a so-called VIP at the 3 hospital? 4 A. Yes. 5 Q. And why was that? 6 A. So you just want me to describe the 7 story a little bit? 8 Q. Yes. 9 A. So we were working in clinic and what 10 happens is we usually see patients together and we 11 were in the room with a patient who was a sort of 12 VIP patient. He, you know, was a donor. 13 And so he was a gentleman like 14 what, around 40, and he started talking to me and 15 he just made me like a little uncomfortable and he 16 started like asking me out. And at first I was 17 like haha, it was a joke; I like just brushed it 18 off. And Dr. Weinik was in the room with me and, 19 you know, we just all took it as a joke. But then 20 the patient became more insistent and he just like 21 kept being -- aggressively asking me out. 22 So at that point I, I was put in a 23 difficult situation because Dr. Weinik and we all 24 knew this guy was like a VIP patient and I don't</p>
<p style="text-align: right;">Page 123</p> <p>1 year. 2 Q. Have you ever been with me when I 3 examined patients? 4 A. Yes. 5 Q. About how many times would you say? 6 A. Daily for a month. 7 Q. Have you ever seen me engage in any 8 conduct you thought was inappropriate with a 9 patient? 10 A. No. 11 Q. Have you ever seen anything to make you 12 think I spend more time with young female patients 13 than I did with other patients? 14 A. No. 15 Q. Did I ever behave with you in a way that 16 made you feel uncomfortable? 17 A. No. 18 Q. Did you ever see me engage in any 19 conduct with other female residents that you 20 thought would have made you feel uncomfortable? 21 A. No. 22 Q. Was there ever a time when you were 23 placed in an uncomfortable position by a patient 24 and I resolved that situation?</p>	<p style="text-align: right;">Page 125</p> <p>1 want to piss him off. So it was very awkward and 2 I just walked out. I asked Dr. Weinik if I can 3 walk out and Dr. Weinik said, "Yes, of course, 4 please walk out." 5 And after that encounter Dr. Weinik 6 talked to the patient and made him realize that it 7 was very inappropriate on his part to have behaved 8 like that in front of me and that the patient had 9 made me very uncomfortable. And the patient 10 wanted to apologize to me and he texted Dr. Weinik 11 repeatedly, wanted to apologize to me. And I was 12 like I don't really want to see this guy anymore. 13 So I was grateful for Dr. Weinik for handling that 14 and I thought that it was handled very well. 15 Q. So do you feel on that occasion that I 16 supported you in a situation that could have been 17 proven to be difficult for you? 18 A. Yes, absolutely. 19 DR. WEINIK: Thank you so much. I 20 appreciate it. 21 DR. DALY: Dr. Cowell. 22 DR. COWELL: No questions. 23 DR. DALY: Dr. Queenan? Dr. 24 Queenan has none. Do you have any?</p>

<p style="text-align: right;">Page 126</p> <p>1 DR. LIN: No.</p> <p>2 DR. DALY: So you are what now?</p> <p>3 What do you do here now?</p> <p>4 THE WITNESS: I'm a PGY-4.</p> <p>5 DR. DALY: And when would this</p> <p>6 encounter have occurred? When were you</p> <p>7 working with Dr. Weinik that month?</p> <p>8 THE WITNESS: That was in March</p> <p>9 of -- this year.</p> <p>10 DR. DALY: March of '18.</p> <p>11 THE WITNESS: Yes.</p> <p>12 DR. DALY: Great. I have no</p> <p>13 further questions. Thank you very much.</p> <p>14 Thank you for being here. You can go.</p> <p>15 (Witness excused.)</p> <p>16 ---</p> <p>17 DR. DALY: Could you state your</p> <p>18 name for the court reporter and then she will</p> <p>19 swear you in?</p> <p>20 THE WITNESS: Chris Connor.</p> <p>21 ---</p> <p>22 CHRISTOPHER CONNER, D.O., after</p> <p>23 having been first duly sworn, was examined</p> <p>24 and testified as follows:</p>	<p style="text-align: right;">Page 128</p> <p>1 from Temple so we are here to testify on your</p> <p>2 behalf.</p> <p>3 Q. Temple investigating doctors have</p> <p>4 testified that Dr. Acevedo told them that I made a</p> <p>5 habit of spending more time with young female</p> <p>6 patients as compared to other patients. Are you</p> <p>7 aware of this accusation against me?</p> <p>8 A. I am.</p> <p>9 Q. During the time we worked together were</p> <p>10 you in a position to see me interact with</p> <p>11 patients?</p> <p>12 A. Yes.</p> <p>13 Q. Assuming the Temple investigators have</p> <p>14 accurately reported what Dr. Acevedo told them, do</p> <p>15 you agree with his accusations concerning the</p> <p>16 amount of time I spend with young female patients?</p> <p>17 A. Absolutely not.</p> <p>18 Q. What were your observations?</p> <p>19 A. During my time with Dr. Weinik I would</p> <p>20 say I probably spent the most time with him during</p> <p>21 my three years here and I don't see how he can</p> <p>22 make that claim. We spent lots of time with all</p> <p>23 our patients, good and bad, you know. But there</p> <p>24 was no distinction between sex, race, nothing like</p>
<p style="text-align: right;">Page 127</p> <p>1 ---</p> <p>2 EXAMINATION</p> <p>3 ---</p> <p>4 BY DR. COWELL:</p> <p>5 Q. Dr. Conner, thank you for coming.</p> <p>6 Do you and I know each other?</p> <p>7 A. We do.</p> <p>8 Q. How do we know each other?</p> <p>9 A. You were my attending physician during</p> <p>10 residency from 2012 to '15.</p> <p>11 Q. That's the period of time that we worked</p> <p>12 together?</p> <p>13 A. Yes.</p> <p>14 Q. During that time frame did you also know</p> <p>15 two residents, Dr. Acevedo and Dr. Dua?</p> <p>16 A. I know Dr. Dua. She was in my class.</p> <p>17 Dr. Acevedo, I believe he interviewed during my</p> <p>18 time here but I don't think he was a resident yet.</p> <p>19 Q. Do you have any general idea why you are</p> <p>20 here today?</p> <p>21 A. Yes.</p> <p>22 Q. What is that understanding?</p> <p>23 A. My understanding is there were</p> <p>24 allegations made and you were unfortunately pulled</p>	<p style="text-align: right;">Page 129</p> <p>1 that.</p> <p>2 Q. When you were a resident and chief</p> <p>3 resident did you know another resident named Dr.</p> <p>4 Dua?</p> <p>5 A. Yes.</p> <p>6 Q. Are you aware of another allegation</p> <p>7 against me at a lecture between four and six years</p> <p>8 ago between January of 2012, '13 or '14 where I</p> <p>9 acted inappropriately while Dr. Dua was -- while</p> <p>10 she acted as a model?</p> <p>11 A. I have heard of that allegation, yes.</p> <p>12 Q. Were you at that lecture?</p> <p>13 A. I was.</p> <p>14 Q. Where did that lecture take place?</p> <p>15 A. Philadelphia College of Osteopathic</p> <p>16 Medicine.</p> <p>17 Q. Describe the lecture, what was it about.</p> <p>18 Can you describe what the lecture was about, how</p> <p>19 many people were there, how the room was set up,</p> <p>20 things like that?</p> <p>21 A. It was a once-a-year physical exam</p> <p>22 workshop put on at PCOM because they have a large</p> <p>23 area where we did our osteopathic training. So</p> <p>24 there were a lot of examination tables. There was</p>

<p style="text-align: right;">Page 130</p> <p>1 one set up at the front of the room with a camera</p> <p>2 overlooking it to display it to the other TVs at</p> <p>3 each station. It was our whole residency class.</p> <p>4 I believe you were the only attending there.</p> <p>5 There were probably around 30 people.</p> <p>6 Q. Was the room wired for sound and video?</p> <p>7 A. Yes.</p> <p>8 Q. Did you recall Dr. Dua acting as a</p> <p>9 demonstration model?</p> <p>10 A. I do.</p> <p>11 Q. Can you explain how that works?</p> <p>12 A. We had broken up each body part into</p> <p>13 regions and we would kind of demonstrate physical</p> <p>14 exam techniques in the front of the room and then</p> <p>15 have the small breakout sections.</p> <p>16 Q. Do you recall anything out of the</p> <p>17 ordinary about the event where Dr. Dua acted as a</p> <p>18 model with me?</p> <p>19 A. I do not.</p> <p>20 Q. Do you recall me making any comments or</p> <p>21 jokes at Dr. Dua's expense making the class laugh?</p> <p>22 A. I do not.</p> <p>23 Q. Do you recall me touching her in a way</p> <p>24 you saw to be inappropriate?</p>	<p style="text-align: right;">Page 132</p> <p>1 A. Yes.</p> <p>2 Q. Can you explain any supervision</p> <p>3 structure at the program while you were in it,</p> <p>4 i.e., was there a sort of change in the structure</p> <p>5 of the administration of the people in it?</p> <p>6 A. During my time here I, I don't believe</p> <p>7 there was any change that had occurred as far as</p> <p>8 when you moved into your position. I think that</p> <p>9 was right after I had left.</p> <p>10 Q. So is that to say that the change was</p> <p>11 made after -- you graduated in?</p> <p>12 A. 2015.</p> <p>13 Q. What change occurred after you</p> <p>14 graduated?</p> <p>15 A. There was repositioning. You became</p> <p>16 chair of the department. Dr. Maitin I believe was</p> <p>17 still the residency director.</p> <p>18 Q. Okay. So Dr. Maitin at that point was</p> <p>19 subordinate to me?</p> <p>20 A. Yes.</p> <p>21 Q. And now I'm not trying to imply anything</p> <p>22 improper. But did you ever become aware of rumors</p> <p>23 that Dr. Dua and Dr. Maitin were friends?</p> <p>24 A. I had heard rumors.</p>
<p style="text-align: right;">Page 131</p> <p>1 A. No.</p> <p>2 Q. By the way, when I asked if the room was</p> <p>3 wired for sound and video, was it also wired to</p> <p>4 amplify my voice?</p> <p>5 A. Yes.</p> <p>6 Q. Do you think you would have noticed if I</p> <p>7 humiliated one of your program mates at this</p> <p>8 lecture?</p> <p>9 A. Yes.</p> <p>10 Q. Are you confident that I did not do</p> <p>11 that?</p> <p>12 A. I am confident.</p> <p>13 Q. Who is Dr. Maitin?</p> <p>14 A. Dr. Maitin during my time at Temple was</p> <p>15 our program chair.</p> <p>16 Q. I'm sorry, I didn't hear.</p> <p>17 A. Dr. Maitin was our program chair when I</p> <p>18 was here.</p> <p>19 Q. Did he have any other titles at that</p> <p>20 time?</p> <p>21 A. I believe program director. I believe</p> <p>22 so.</p> <p>23 Q. Was Dr. Maitin also the chair at that</p> <p>24 time?</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Was it common knowledge among the</p> <p>2 residents that Dr. Dua and Dr. Maitin were</p> <p>3 friends?</p> <p>4 A. I don't want to speak for others but I</p> <p>5 would say I was not the only one who heard those</p> <p>6 rumors.</p> <p>7 Q. Did the Temple investigators ever to</p> <p>8 your knowledge try to contact you to discuss my</p> <p>9 case and what you might know about it?</p> <p>10 A. No.</p> <p>11 DR. WEINIK: Thank you.</p> <p>12 DR. COWELL: I have a question if</p> <p>13 you don't mind.</p> <p>14 ---</p> <p>15 EXAMINATION</p> <p>16 ---</p> <p>17 BY DR. COWELL:</p> <p>18 Q. Thank you for being so patient with us.</p> <p>19 Did I understand you, and correct</p> <p>20 me if you think I'm wrong, that you said you heard</p> <p>21 rumors of an alleged event that took place with</p> <p>22 Dr. Dua?</p> <p>23 A. Are we referring to --</p> <p>24 Q. At this -- at the exam.</p>

<p style="text-align: right;">Page 134</p> <p>1 A. I heard the allegation after the fact, 2 like once this news broke I guess not the person 3 but the allegation, yeah. 4 Q. So only recently? 5 A. Yeah. 6 Q. Not back when you were still a resident? 7 A. No, no. The rumors I think he was 8 referring to was about relationships with Dr. Dua 9 and someone else, not. 10 MR. QUEENAN: It sounds like 11 there's a question about insinuation of a 12 relationship between Dr. Dua and Dr. Maitin; 13 is that correct? 14 THE WITNESS: Yes. 15 MR. QUEENAN: A relationship that 16 went beyond a mentor/apprentice relationship? 17 THE WITNESS: That's the rumor. 18 MR. QUEENAN: Okay. 19 BY DR. COWELL: 20 Q. So I believe that Dr. Weinik was trying 21 to solicit whether or not you remember the 22 incident where it was alleged that Dr. Dua was 23 inappropriately -- the exam went beyond 24 expectations for Dr. Dua. Are you aware of any of</p>	<p style="text-align: right;">Page 136</p> <p>1 the model in the center of the room? 2 THE WITNESS: It's just somebody 3 grabs a person that's there. There's no kind 4 of rhyme or reason. 5 DR. DALY: Wait. Somebody grabs a 6 person that's there. Who -- 7 THE WITNESS: There's 30 people. 8 DR. DALY: I understand. But who 9 would grab them? Would it be -- 10 THE WITNESS: Whoever is 11 demonstrating. 12 DR. DALY: The teacher, the 13 demonstrator. 14 THE WITNESS: So I had led part of 15 the session. So if I wanted to demonstrate a 16 physical exam maneuver I would either ask for 17 a volunteer or somebody to come up and that 18 would be it. 19 DR. DALY: So in that instance with 20 Dr. Dua it's likely since Dr. Weinik was the 21 teacher that day, faculty member, he would 22 have, as you said, "grabbed" Dr. Dua to be 23 the model? 24 THE WITNESS: Or asked for a</p>
<p style="text-align: right;">Page 135</p> <p>1 that? 2 A. I remember -- I was there. I remember 3 the examination, I remember her in front of the 4 room but I do not -- I did not witness anything of 5 that sort. 6 Q. So you can't speak to whether or not Dr. 7 Dua expressed concern about any parts of the 8 examination? 9 A. No, to my knowledge she had not. 10 Q. And you can't speak to whether or not 11 there were comments made by other residents 12 regarding their reaction to her reaction? 13 A. That is true, I did not hear those. 14 DR. COWELL: Thank you. 15 DR. DALY: Can I ask you who chose 16 Dr. Dua as the model that day or was she -- 17 did she voluntarily? How did she become the 18 model? 19 THE WITNESS: I honestly don't 20 know. There were -- 21 DR. DALY: Well, this happens every 22 year you say. 23 THE WITNESS: Oh, yes. 24 DR. DALY: How does someone become</p>	<p style="text-align: right;">Page 137</p> <p>1 volunteer. 2 DR. DALY: But you don't remember? 3 THE WITNESS: I don't remember if 4 she volunteered or not. 5 DR. DALY: And in other instances 6 when this happened do you remember was it 7 voluntary or did somebody -- you said 8 somebody grabbed somebody? 9 THE WITNESS: You make it sound 10 like teaching an exam maneuver is illegal. 11 DR. DALY: I'm not trying to make 12 it sound anything. I'm just trying to figure 13 out how she became the model on that day. 14 THE WITNESS: And that I don't 15 think. 16 DR. DALY: Okay. 17 THE WITNESS: There were numerous 18 models that day. 19 DR. DALY: Were any of the models 20 that Dr. Weinik examined, were any male or 21 were they all female? 22 THE WITNESS: Male as well. 23 DR. DALY: Male as well, okay. 24 Anything else, Dr. Queenan or Dr.</p>

<p style="text-align: right;">Page 138</p> <p>1 Lin?</p> <p>2 MR. QUEENAN: I guess have a</p> <p>3 question about is as you recall this thing,</p> <p>4 and it sounds like you can recall it</p> <p>5 relatively well, better than I can recall</p> <p>6 that many years ago, but you said there was</p> <p>7 no -- essentially you made it sound like it</p> <p>8 was humorless.</p> <p>9 THE WITNESS: What part of --</p> <p>10 MR. QUEENAN: When you were asked</p> <p>11 about was there anything that made her</p> <p>12 uncomfortable or that she was poked fun at in</p> <p>13 front of the group you said there was no</p> <p>14 humor to the -- generally when we get into</p> <p>15 these sessions something happens that's kind</p> <p>16 of funny. I mean, you know, in grand rounds</p> <p>17 somebody makes a little joke and they laugh.</p> <p>18 You made it sound like it was, you know, this</p> <p>19 draconian almost exam, like you did an exam</p> <p>20 and that was it. Is that how you recall it?</p> <p>21 THE WITNESS: Well, I think you're</p> <p>22 putting words in my mouth but --</p> <p>23 MR. QUEENAN: I'm not trying to but</p> <p>24 that was essentially what had happened, just</p>	<p style="text-align: right;">Page 140</p> <p>1 MR. QUEENAN: Nothing?</p> <p>2 THE WITNESS: No.</p> <p>3 MR. QUEENAN: Thank you. That was</p> <p>4 a simple question. Thanks for the answer.</p> <p>5 DR. DALY: Do you have anything</p> <p>6 else?</p> <p>7 I might just ask where are you now?</p> <p>8 THE WITNESS: I am in a private</p> <p>9 practice in the Scranton Wilkes-Barre area.</p> <p>10 DR. DALY: Okay. If there's</p> <p>11 nothing else, thanks very much for your time.</p> <p>12 We appreciate it.</p> <p>13 (Witness excused.)</p> <p>14 MR. QUEENAN: Can we go off the</p> <p>15 record for a second?</p> <p>16 DR. DALY: We will go off the</p> <p>17 record.</p> <p>18 (There was a discussion held off</p> <p>19 the record.)</p> <p>20 DR. DALY: Thanks very much for</p> <p>21 coming.</p> <p>22 THE WITNESS: Pleasure.</p> <p>23 DR. DALY: If you could do us a</p> <p>24 favor and just state your name and the court</p>
<p style="text-align: right;">Page 139</p> <p>1 like he wasn't really saying that there was</p> <p>2 something harmful about examining someone or</p> <p>3 illegal about it. He was simply asking a</p> <p>4 question.</p> <p>5 THE WITNESS: Okay. So let me</p> <p>6 explain this again so you can understand.</p> <p>7 What is your name?</p> <p>8 MR. QUEENAN: Queenan.</p> <p>9 THE WITNESS: So you had asked or</p> <p>10 someone had asked if there was -- if I</p> <p>11 remember anything inappropriate that was</p> <p>12 done. I do not. They asked there was no</p> <p>13 mention in front of the room --</p> <p>14 MR. QUEENAN: They asked did it</p> <p>15 make her uncomfortable. So then I asked was</p> <p>16 there any humor at any point during the</p> <p>17 course of this. What makes you uncomfortable</p> <p>18 and what makes me uncomfortable can be two</p> <p>19 entirely different things.</p> <p>20 THE WITNESS: I agree with that.</p> <p>21 MR. QUEENAN: So what's why I was</p> <p>22 asking. Do you remember anything that might</p> <p>23 have been deemed to be humorous?</p> <p>24 THE WITNESS: No, I don't.</p>	<p style="text-align: right;">Page 141</p> <p>1 reporter will swear you in.</p> <p>2 THE WITNESS: Absolutely. My name</p> <p>3 is Reed Conly Williams.</p> <p>4 REED C. WILLIAMS, M.D., after</p> <p>5 having been first duly sworn, was examined</p> <p>6 and testified as follows:</p> <p>7 ---</p> <p>8 EXAMINATION</p> <p>9 ---</p> <p>10 BY DR. WEINIK:</p> <p>11 Q. Dr. Williams, thank you for coming</p> <p>12 today.</p> <p>13 A. My pleasure.</p> <p>14 Q. And thank you for waiting.</p> <p>15 Do you and I know each other?</p> <p>16 A. Yes, sir.</p> <p>17 Q. How do we know each other?</p> <p>18 A. We have known each other since I was a</p> <p>19 medical student at Temple, as a resident training</p> <p>20 in the PM&R program and as faculty colleagues</p> <p>21 while I had started my professional career back</p> <p>22 here at Temple.</p> <p>23 Q. And during what period of time were we</p> <p>24 together? Do you remember the years?</p>

<p style="text-align: right;">Page 142</p> <p>1 A. That would be medical student would have 2 been my senior -- 2011. 2012 you would have been 3 a partner in my intern year. 2012 through 2015 4 would have been residency. I was away for a year 5 in Seattle for fellowship and then have been back 6 at Temple since September of 2016. 7 Q. Are you generally aware of the 8 circumstances that brings us all here today? 9 A. Yes, sir. 10 Q. During your time working with me did you 11 ever see any indication that I spent more time 12 with young female patients as opposed to other 13 patients? 14 A. No, sir. 15 Q. Do you think you had enough interactions 16 with me to know if I spent more time with young 17 female patients than other patients? 18 A. Without a doubt, yes. 19 Q. Can you explain that for me, please? 20 A. You are a consummate clinician. You 21 spend the appropriate amount of time with patients 22 as they need. I think you spend the time 23 appropriate to a patient's concerns directly. We 24 do see a number of musculoskeletally complex</p>	<p style="text-align: right;">Page 144</p> <p>1 been his faculty for the last three -- two years. 2 Q. So you have trained Dr. Acevedo? 3 A. Firsthand. 4 Q. Are you aware of an incident where Dr. 5 Acevedo accused me of exposing too much of a 6 female patient's buttocks during an injection 7 procedure? 8 A. I am aware of the accusation only 9 because of these procedures. 10 Q. Describe the procedure I was performing. 11 A. The procedure in question was an 12 ultrasound guided sacroiliac joint injection. 13 Q. While I was preparing the patient for 14 the procedure did you observe anything out of the 15 ordinary? 16 A. I observed the entire procedure from 17 start to finish and recall nothing out of the 18 ordinary or abnormal. 19 Q. How did I go about preparing the patient 20 for the injection? 21 A. As per standard, you lay the patient 22 prone. After describing the risks and benefits 23 you expose the injection site by, you know, 24 usually rolling up the shirt to kind of mid-back,</p>
<p style="text-align: right;">Page 143</p> <p>1 patients in our field. A lot of those are not 2 directly musculoskeletal in nature and can be 3 psychosomatically involved. As statistics would 4 have it, there are many of those patients that are 5 women, I would say statistically more than there 6 are men. But I have no recollection of you ever 7 singling out younger women or women in general 8 over men. I think the patient relationships you 9 have are professional and genuine and that's why 10 patients return to see you time and time, year 11 after year. 12 Q. Based on your firsthand knowledge is 13 that accusation ridiculous? 14 A. Firsthand knowledge I would say that 15 accusation is unwarranted, unfounded and 16 ridiculous. 17 Q. When you were a chief resident did you 18 know a man named Phillip Acevedo? 19 A. As a chief resident I did not. But we 20 had interviewed him as -- so I guess yes, I would 21 have interviewed him my chief resident year, yes. 22 Q. And do you know Dr. Acevedo since 23 returning as an attending? 24 A. Yes, I have been a faculty -- I have</p>	<p style="text-align: right;">Page 145</p> <p>1 rolling down the pants or whatever under, you 2 know, lower garments to expose some of the gluteal 3 cleft to expose the full SI for sterilization. 4 After sterilizing to keep your area sterile and 5 clean you use the ultrasound to locate your 6 position on the sacroiliac joint which can vary 7 which is a reason for having a little bit of a 8 larger prep area and you use ultrasound guidance 9 to guide the needle to deliver the medication. 10 Q. Dr. Williams, about how many times would 11 you say that you perform -- have you ever yourself 12 performed the same procedure in your medical 13 career? 14 A. Yes. 15 Q. About how many times would you say? 16 A. Hundreds at this point. 17 Q. Did I do anything you would not have 18 done? 19 A. No, sir. If anything, I think that may 20 be the reason I prepare the way I do. 21 Q. Was there anything out of the ordinary 22 with this procedure? 23 A. No, sir. 24 Q. In your opinion did I uncover any more</p>

<p style="text-align: right;">Page 146</p> <p>1 of the patient's buttocks than it was necessary to 2 perform the procedure? 3 A. I recall again nothing out of the 4 appropriate and it was a normal draping and 5 procedure. 6 Q. By the way, did you see anything about 7 the patient's demeanor that led you to conclude 8 that she was embarrassed or humiliated more than 9 out of the ordinary? 10 A. Not at all. It was the patient, and if 11 I recall, her significant other in the room as 12 well as other educational colleagues with us with 13 residents and medical students. 14 Q. So obviously the Panel are all doctors 15 and so the next question is for the record only so 16 people reading it later who are not doctors will 17 understand what the doctors already know. As a 18 doctor administering an injection into a joint, 19 is that joint always located precisely where it is 20 expected to be? 21 A. No, there is plenty of anatomical 22 variance, I would say more so with the sacroiliac 23 joint than the majority of other joints. 24 Q. And is that -- how come the joint is not</p>	<p style="text-align: right;">Page 148</p> <p>1 Often times you are at or near the gluteal cleft. 2 Garments can transition and ride up and they could 3 have come into the sterile field, as well as 4 accommodating for variance in injection target. 5 Q. Dr. Williams, this is a big point in 6 this case. Are you absolutely sure I properly 7 uncovered this patient, sterilized the correct 8 area and draped her in a professional manner 9 consistent with the way you were also taught to 10 perform this procedure? 11 A. Yes. I believe I have enough experience 12 and moral aptitude if there were something 13 inappropriate I would have said something 14 otherwise and there was nothing out of the 15 ordinary. 16 Q. Dr. Williams, did there come a time when 17 you were interviewed by Temple investigators about 18 this precise incident? 19 A. Yes. 20 Q. Who interviewed you? 21 A. Dr. Cowell, Dr. Ellen Tedaldi, and I 22 believe there was a third. I think it was Sue 23 Coull but I can't be entirely sure. It was GME or 24 an administrator.</p>
<p style="text-align: right;">Page 147</p> <p>1 always where doctor expects it to be? 2 A. There are multiple reasons. Anatomic 3 variance the way that the pelvis and the sacrum 4 come together, the alignment of that junction, the 5 body mass of the patient, the tissue surrounding 6 said joint. 7 Q. In order to allow for the differences 8 between people's anatomy, what does a doctor do to 9 make sure the proper area to be treated is 10 sterile? 11 A. Drapes an appropriate area for sterile 12 field such that the entire scope of the target can 13 be prepared for the procedure in one go. 14 Q. In this instance where I was injecting 15 the lady and Dr. Acevedo was accusatory, did I 16 uncover the proper amount of the patient's skin to 17 correctly sterilize the area around the injection? 18 A. I believe you did. 19 Q. Did that involve uncovering some of the 20 patient's buttocks? 21 A. I would suggest that yes, it did, the 22 top portion of the patient's buttock. 23 Q. How come? 24 A. Standard, again, draping procedure.</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. Might there have been someone 2 transcribing? 3 A. This I have no -- I don't, I don't 4 recall. 5 Q. Did you basically tell the investigating 6 doctors what you told us here today? 7 A. Yes, I believe so. 8 Q. Were they both listening as far as you 9 could tell? 10 A. Yes. 11 Q. Now, I understand you spoke by telephone 12 with my counsel, Bruce Castor to my left, on 13 Saturday -- I'm sorry, on Sunday. Is that right? 14 A. That is correct. 15 Q. What position does Dr. Tedaldi hold at 16 Temple as far as you know? 17 A. She is senior faculty. I know she's on 18 at least this Board as well as other boards at the 19 executive level. 20 Q. Do you like her? 21 A. Yes. Professionally and personally over 22 the last ten years of my experience here at Temple 23 I would say I do. 24 Q. Did you tell Mr. Castor you did not want</p>

<p style="text-align: right;">Page 150</p> <p>1 to say anything here that would embarrass or 2 humiliate Dr. Tedaldi? 3 A. I did. 4 Q. Did Mr. Castor explain to you that you 5 would be testifying under oath here today? 6 A. He did. 7 Q. You know what that means, right? 8 A. Yes. 9 Q. Did Dr. Castor explain -- did Mr. Castor 10 explain to you that testifying under oath 11 obligates you to tell the truth no matter what? 12 A. He did, although it was unnecessary to 13 explain that. 14 Q. In your own mind did you weigh telling 15 the truth against possible embarrassing and 16 humiliating Dr. Tedaldi in public and on a 17 stenographic record? 18 A. I weighed it, yes. 19 Q. And you decided that if you were indeed 20 under oath you would have to testify to anything 21 in a truthful way that was asked? 22 DR. DALY: Dr. Weinik, it's 23 understood about the truth, to tell the 24 truth. Can you move along?</p>	<p style="text-align: right;">Page 152</p> <p>1 professional behavior on the part of investigator 2 Dr. Tedaldi that she fell asleep while you were 3 relating what actually happened? 4 A. I would agree with that. 5 Q. If she fell asleep while you were 6 actually talking? 7 A. It appeared as though she did. 8 Q. Now, I'm not trying to imply anything 9 improper. But did you ever become aware of rumors 10 that Dr. Dua and Dr. Maitin were friends? 11 A. Dr. Dua and Dr. Maitin are friends. 12 Q. Was that common knowledge among 13 residents that Dr. Dua and Dr. Maitin were 14 friends? 15 A. Yes, Dr. Dua and Dr. Maitin have a close 16 relationship. 17 Q. Did the Temple investigators ever ask 18 you about this idea that Dr. Dua and Dr. Maitin 19 were friendly? 20 A. I don't recall if they did or not. If 21 they had I would have said that they are friendly. 22 DR. WEINIK: I'm done. 23 DR. DALY: Dr. Cowell. 24 ---</p>
<p style="text-align: right;">Page 151</p> <p>1 MR. QUEENAN: He's going to tell 2 the truth. 3 DR. WEINIK: Certainly. 4 BY DR. WEINIK: 5 Q. Dr. Williams, do you know whether Dr. 6 Tedaldi was paying attention to you when you were 7 explaining about this procedure involving the 8 female patient and the injection? 9 A. Dr. Tedaldi certainly appeared to be 10 paying attention for the majority of the 11 conversation. I do have a frank recollection at 12 one point Dr. Tedaldi having her eyes closed. I 13 have no idea whether or not she was awake and 14 listening or asleep. But I remember thinking that 15 given the gravity of the situation and the 16 accusations I was being asked about I remember 17 being surprised that if she were not present I 18 found that odd. 19 Q. Did you tell Mr. Castor that she fell 20 asleep? 21 A. I did. 22 Q. Given that I am facing dismissal from my 23 position at the hospital based in part on this 24 event that you witnessed, do you consider it</p>	<p style="text-align: right;">Page 153</p> <p>1 EXAMINATION 2 --- 3 BY DR. COWELL: 4 Q. Dr. Williams, thank you for coming in. 5 You stated but I will state for the 6 record. You do remember the opportunity we had to 7 interview concerning some of the allegations that 8 are presented here today? 9 A. Yes, sir. 10 Q. And do you remember the part of the -- 11 during that procedure that Dr. Weinik performed 12 that one of the residents voluntarily withdrew 13 himself from the procedure? 14 A. I do. 15 Q. Do you remember -- am I correct in you 16 recanting that you came out to find out what was 17 wrong? 18 A. You're correct. Towards the end of the 19 procedure after noting he had left about 20 two-thirds of the way through as the rest of the 21 room was being clean and the patient was being 22 clothed I stepped out to ask the question. 23 Q. And can I trouble you to tell us what 24 that resident responded?</p>

<p style="text-align: right;">Page 154</p> <p>1 A. Yeah, he said something along the lines 2 of there were too many people in the room and he 3 felt that that was odd or otherwise. He didn't 4 tell me anything about inappropriate draping or 5 him being uncomfortable, Dr. Weinik or any 6 procedure otherwise. I didn't know about the 7 draping issue until that, until that meeting. 8 Q. Did you find that unusual that the 9 resident dismissed himself even with his 10 explanation? 11 A. Yeah, I thought it was, I mean I thought 12 it was odd for a resident who was interested in 13 doing these procedures to step out. 14 Q. In part of that interview session when 15 we had the opportunity did you make comment that, 16 in fact, there were times that Dr. Weinik says 17 things that you would not say and the only thing 18 there -- there are times that he says things that 19 he shouldn't say? 20 A. Yes, yeah, I said that there are 21 comments that I would not make. 22 Q. Did you make the comment "he may be 23 overly flirtatious and we have had sidebar 24 conversations about this"?</p>	<p style="text-align: right;">Page 156</p> <p>1 intent wasn't to be as much? 2 A. No, not a single complaint that I 3 remember or ever having been involved with. 4 Q. Did you find any breach of attentiveness 5 on my behalf during that interview session? 6 A. No, sir. And again, I can only comment 7 on Dr. Tedaldi having her eyes shut. You know, I 8 can only say she appeared to be fatigued. 9 DR. COWELL: Thank you. 10 DR. DALY: A couple of questions. 11 First, Dr. Williams, thanks for coming 12 tonight. 13 Could you give us some flavor 14 that -- there's a great deal of vagueness in 15 your response to Dr. Cowell and I recognize 16 the friendship as you have described here 17 today. Tell us, give me a flavor of these 18 comments. Were these comments about cars, 19 horses, tables, chairs, people; were they 20 about men, were they about women; were they 21 jokes? Give us a flavor. 22 THE WITNESS: Jokes, jovial 23 offhanded comments that, you know, I honestly 24 have no recollection of individual themes or</p>
<p style="text-align: right;">Page 155</p> <p>1 A. I don't remember anything about saying 2 overly flirtatious. We have had sidebar 3 conversations about comments. 4 Q. Would it be helpful for me to remind you 5 that the third person in the room was not Ms. 6 Coull but, in fact, it was Pam Fierro who was 7 taking minutes of the interview session? 8 A. Yeah, I mean it would help. It wouldn't 9 necessarily change what my recollection is. I 10 just remember a third person. They weren't asking 11 questions. I guess I just don't remember. 12 Q. So could you explain a little bit more 13 about the sidebar discussions and what you're 14 implication of that was? 15 A. Yeah. You know, Dr. Weinik and I are as 16 well as colleagues friends and, you know, small 17 jokes, small, you know, comments made without, you 18 know, malice or otherwise I had made comment that 19 I wouldn't do that, you know, that we should be 20 careful of comments of that ilk. 21 Q. And has it been your experience at any 22 time that there were concerns expressed by the 23 residents about sexual innuendos that may have 24 been inappropriate even if they weren't -- the</p>	<p style="text-align: right;">Page 157</p> <p>1 trends. It was just things that I felt, you 2 know, at the time that I wouldn't do. 3 DR. DALY: That you felt 4 inappropriate; is that what you're saying, 5 that you just felt shouldn't have happened? 6 THE WITNESS: Inappropriate in a 7 way that it was something you would maybe say 8 to a friend or, you know, on your own 9 personal time but in the workplace maybe not. 10 This was, again, a few times, if ever, once 11 or twice. 12 DR. DALY: I understand. When this 13 episode that occurred with these other people 14 in the room and this woman patient lying 15 prone in the injection example you gave or 16 were asked about, did the patient return to 17 your knowledge to see Dr. Weinik as a 18 patient? 19 THE WITNESS: Not to my knowledge, 20 but I wouldn't have any idea. 21 DR. DALY: You wouldn't know? 22 THE WITNESS: No, no, sir. 23 MR. QUEENAN: She didn't 24 specifically request not to return? Is that</p>

<p style="text-align: right;">Page 158</p> <p>1 what you were told?</p> <p>2 THE WITNESS: No, to my knowledge</p> <p>3 that request had never been made.</p> <p>4 MR. QUEENAN: That was said</p> <p>5 earlier. That's why I am trying to clarify.</p> <p>6 THE WITNESS: By myself.</p> <p>7 MR. QUEENAN: Not by you. It was</p> <p>8 said earlier the specific patient requested</p> <p>9 not to return.</p> <p>10 THE WITNESS: No, I don't remember</p> <p>11 that at all. I don't remember being</p> <p>12 uncomfortable. I don't remember her</p> <p>13 significant other in the room being</p> <p>14 uncomfortable.</p> <p>15 DR. DALY: At the time you were</p> <p>16 here as faculty, during the last three years</p> <p>17 that you have been here as faculty who has</p> <p>18 been the program director?</p> <p>19 THE WITNESS: Ian Maitin.</p> <p>20 DR. DALY: He is still the program</p> <p>21 director?</p> <p>22 THE WITNESS: Correct.</p> <p>23 DR. WEINIK: And Dr. Weinik was the</p> <p>24 either interim chair or chair?</p>	<p style="text-align: right;">Page 160</p> <p>1 BY DR. WEINIK:</p> <p>2 Q. Thank you, Dr. Arora, for driving a long</p> <p>3 distance and coming here tonight and being patient</p> <p>4 enough to give this important testimony.</p> <p>5 How do you and I know each other?</p> <p>6 A. I was your resident for a period of</p> <p>7 three years as well as a medical student prior to</p> <p>8 becoming a resident at Temple.</p> <p>9 Q. During what period of time did we work</p> <p>10 together at Temple?</p> <p>11 A. 2012 to 2015 as well as 2010 when I was</p> <p>12 a medical student.</p> <p>13 Q. During that period of time frame did you</p> <p>14 also know two residents, Dr. Acevedo and Dr. Dua?</p> <p>15 A. Yes, I did.</p> <p>16 Q. How did you know them?</p> <p>17 A. Dr. Acevedo as a younger resident</p> <p>18 interviewing for a residency position and Dr. Dua</p> <p>19 was a co-resident in my class. I was her -- one</p> <p>20 of her chief residents.</p> <p>21 Q. Do you have a general idea why you are</p> <p>22 here today?</p> <p>23 A. Yes.</p> <p>24 Q. What is your understanding?</p>
<p style="text-align: right;">Page 159</p> <p>1 THE WITNESS: Correct, Dr. Weinik</p> <p>2 has been the interim chair for my internship.</p> <p>3 DR. DALY: Okay. Do you have any</p> <p>4 other questions?</p> <p>5 MR. QUEENAN: No.</p> <p>6 DR. LIN: No.</p> <p>7 DR. DALY: Dr. Williams, thanks</p> <p>8 very much. We appreciate you're being here.</p> <p>9 (Witness excused.)</p> <p>10 - - -</p> <p>11 DR. DALY: Thank you very much for</p> <p>12 coming. We are back on the record. The</p> <p>13 court reporter will ask your name and will</p> <p>14 then swear you in.</p> <p>15 VIKRAM ARORA, D.O., after having</p> <p>16 been first duly sworn, was examined and</p> <p>17 testified as follows:</p> <p>18 DR. DALY: Could you state your</p> <p>19 name, please, and spell it if necessary?</p> <p>20 THE WITNESS: Dr. Vikram,</p> <p>21 V-I-K-R-A-M, last name Arora, A-R-O-R-A.</p> <p>22 - - -</p> <p>23 EXAMINATION</p> <p>24 - - -</p>	<p style="text-align: right;">Page 161</p> <p>1 A. Allegations of misconduct against you</p> <p>2 filed by a former resident.</p> <p>3 Q. Temple investigating doctors have</p> <p>4 testified that Dr. Acevedo told them that I made a</p> <p>5 habit of spending more time with young female</p> <p>6 patients as compared to other patients. Are you</p> <p>7 aware of this accusation against me?</p> <p>8 A. Yes.</p> <p>9 Q. During the time we worked together were</p> <p>10 you in a position to see and interact with me as I</p> <p>11 saw patients?</p> <p>12 A. Yes.</p> <p>13 Q. Assuming the Temple investigators have</p> <p>14 accurately reported what Dr. Acevedo told them, do</p> <p>15 you agree with this accusation concerning the</p> <p>16 amount of time I spent with young female patients?</p> <p>17 A. No, I do not. I feel you spent equal</p> <p>18 time with all patients.</p> <p>19 Q. What were your observations?</p> <p>20 A. You spent quite a bit of time with every</p> <p>21 patient, probably more time than you need to with</p> <p>22 individual patients. The time you spend with</p> <p>23 patients is dependent on the issue the patient had</p> <p>24 but I felt your timing was equal.</p>

<p style="text-align: right;">Page 162</p> <p>1 Q. If Dr. Acevedo insists that it is a fact 2 as opposed to his own opinion that I took longer 3 with young female patients. Based on your 4 experience, would that be a truth or a lie? 5 A. That would be a lie. 6 Q. When you were a resident and chief 7 resident did you know another resident by the name 8 of Dr. Dua? 9 A. Yes, I did. 10 Q. Are you aware of another allegation 11 against me that at a lecture, a physical 12 examination workshop lecture between four to six 13 years ago that somewhere between January, 2012 and 14 2014 that I acted inappropriately with Dr. Dua 15 while she acted as a model? 16 A. I am aware of the accusation. 17 Q. Were you at that lecture? 18 A. I was at the lecture. 19 Q. Where did the lecture take place? 20 A. At the Philadelphia College of 21 Osteopathic Medicine OMM lab. 22 Q. Describe what the lecture was about and 23 how many people were there and how the room was 24 set up, things like that?</p>	<p style="text-align: right;">Page 164</p> <p>1 don't remember if she was the first one to go or 2 the second one to go. I don't recall that. But I 3 do recall her being in the front of the room and 4 being examined. 5 Q. Do you recall anything out of the 6 ordinary about the event where Dr. Dua acted as a 7 model with me? 8 A. I do not. 9 Q. Do you recall me making comments or 10 jokes that at Dr. Dua's expense and making the 11 class laugh? 12 A. I do not. 13 Q. Do you recall me touching her in a way 14 you saw to be inappropriate? 15 A. I do not. 16 Q. By the way, when I asked if the room was 17 wired for sound and video, was it also wired to 18 amplify my voice? 19 A. Yes, I believe you had a microphone on. 20 Q. Do you think you would have noticed if I 21 humiliated one of your program mates at this 22 lecture? 23 A. Yes. 24 Q. Are you confident that I did not?</p>
<p style="text-align: right;">Page 163</p> <p>1 A. The lecture was about manipulative 2 medicine, it was about physical examination 3 maneuvers and diagnosing different types of 4 pathology as well as demonstrating how to perform 5 those exam maneuvers as well as different 6 palpatory techniques. In addition to that, we did 7 include some osteopathic manipulative medicine 8 techniques. The lecture took place in the OMM 9 room which I am familiar with as a medical 10 student. There's different sections and tables. 11 We were set up at different stations and then 12 there's the center of the room with a camera as 13 well as screens at each station. There were a 14 number of residents, probably 35 residents and 15 medical students. 16 Q. Was the room wired for sound and video? 17 A. Yes. 18 Q. Do you recall Dr. Dua acting as a 19 demonstration model? 20 A. I do. 21 Q. Explain how that works. 22 A. The person volunteers to be seen in the 23 front of the room or to have examination maneuvers 24 performed on them in the front of the room. I</p>	<p style="text-align: right;">Page 165</p> <p>1 A. Yes. 2 Q. Can you please tell me who Dr. Maitin 3 is? 4 A. He was the former chairman of our 5 department and is program director. 6 Q. Explain the supervision structure 7 while -- of the program while you were in it? 8 A. Dr. Maitin was our chair and program 9 director, oversaw our responsibilities as chief 10 resident. 11 Q. So has that structure changed since you 12 were there? 13 A. I cannot speak to the structure now. 14 But the structure has changed. You were 15 chairperson after I left and he remained program 16 director and I believe Dr. Cruz was associate 17 program director. 18 Q. Now, I'm not trying to imply anything 19 improper. But did you ever become aware of rumors 20 that Dr. Dua and Dr. Maitin were friends? 21 A. I'm sorry, can you repeat that? 22 Q. I am not trying to imply anything 23 improper. But did you ever become aware of rumors 24 that Dr. Dua and Dr. Maitin were friends?</p>

<p style="text-align: right;">Page 166</p> <p>1 A. Yes, they were. They had a close 2 relationship. 3 Q. Was that common knowledge among 4 residents that Dr. Dua and Dr. Maitin were 5 friends? 6 A. Yes. 7 Q. Did the Temple investigators ever to 8 your knowledge try to contact you to discuss my 9 case and what you might know about it? 10 A. No. 11 DR. WEINIK: That's it. 12 DR. DALY: Dr. Cowell. 13 --- 14 EXAMINATION 15 --- 16 BY DR. COWELL: 17 Q. Thank you. Thank you for being patient. 18 So can I trouble you to ask what 19 prompted your memory of the incident with Dr. Dua? 20 A. In the osteopathic lab? 21 Q. Exactly. 22 A. I remember those sessions very well 23 because that's where I went to medical school. So 24 what prompted my memory of it, I remember --</p>	<p style="text-align: right;">Page 168</p> <p>1 believe Dr. Sharma, Annu Sharma was a model at 2 some point, either in the front or at a end of 3 that group session. And then my specific pod was 4 myself, Dr. Bonner, and I cannot recall the other 5 person. 6 MR. QUEENAN: There would be like 7 two up at the front? 8 THE WITNESS: There's one at the 9 front at a time. 10 MR. QUEENAN: You're saying Dr. 11 Sharma was up at the front? 12 THE WITNESS: I believe so. 13 BY DR. COWELL: 14 Q. So you were in the company of 30 other 15 individuals at that session? 16 A. Approximately. 17 Q. And you said you don't -- you weren't 18 exposed to anything else. Can you say for certain 19 that none of the other 30 folks there might have 20 been exposed to something unusual or untoward 21 during that exam? 22 A. I can only speak to my group and who was 23 in the front of the room. 24 Q. And up until now had you ever heard</p>
<p style="text-align: right;">Page 167</p> <p>1 Q. Specifically of her, her exam. 2 A. Of her exam. When I was asked questions 3 about it I remember that lab very, very well. 4 Q. So you said you don't remember anything 5 being abnormal, unusual? 6 A. I don't remember anything out of the 7 ordinary at that lab. 8 Q. So was there anything that made you 9 remember -- if there was nothing unusual or out of 10 the ordinary, what made that stick in your mind to 11 trace back that far? 12 A. We only do that lab once a year during 13 grand rounds. So it's a four-hour period. We had 14 done two labs. The first lab was a year before 15 and was done by Dr. Dave Mahon who set that up for 16 us. So he was a former chief resident there and 17 Dr. Weinik participated in that lab as well. I 18 remember that very well, too. And then the 19 following year we did the second lab. It was 20 Dr. Weinik that primarily ran it but we were the 21 chief residents at that time. 22 Q. Thank you. Can you tell me some of the 23 other models that were involved in the lab? 24 A. I remember Dr. Dua specifically. I</p>	<p style="text-align: right;">Page 169</p> <p>1 anything that someone insinuated that something 2 inappropriate had happened or is this the first 3 you ever heard of it? 4 A. This was the first I heard of it. 5 Q. Do you -- you know you and whoever you 6 may have run into while you were waiting, out of 7 the 30 people do you know how many others are 8 coming to supply testimony for what may or may not 9 have happened today out of 30 people? 10 A. I don't know the number specifically. 11 I'm sorry, I'm not really understanding the 12 question you're asking. 13 Q. I apologize. What I'm trying to say is 14 that there were 30 people at the session and 15 you're one of the 30 and you may have met someone 16 else in the room while you were waiting that may 17 have been two of the 30 or three of the 30 or four 18 of the 30. Are you aware of how many out of the 19 30 people that were there may be available to add 20 testimony to this? 21 A. I don't know who would be able to 22 provide testimony if they remember that event. 23 That seems a tough question for me to answer. You 24 could contact 30 people if you would like and see</p>

<p style="text-align: right;">Page 170</p> <p>1 what they say.</p> <p>2 DR. DALY: I have a couple</p> <p>3 questions, if you don't mind. The -- we have</p> <p>4 heard that this room is wired for sound and</p> <p>5 is wired for video. Did you use videos at</p> <p>6 all as part of your teaching from these</p> <p>7 sessions that occurred? I have been to PCOM</p> <p>8 but I haven't necessarily been to that</p> <p>9 specific room. Did you use videos afterwards</p> <p>10 so if Dr. Weinik would examine somebody this</p> <p>11 is a once a year event and it was --</p> <p>12 THE WITNESS: Generally they</p> <p>13 weren't recorded and saved. They were</p> <p>14 broadcasted for us to be able to see them</p> <p>15 because sometimes you can't, you know, being</p> <p>16 in the front of the room if you know the room</p> <p>17 you can't really see again where you have</p> <p>18 someone's leg if it's adducted or abducted</p> <p>19 and certain positions. The overhead cameras</p> <p>20 allow you to do that. I think the overhead</p> <p>21 cameras allow you to do that.</p> <p>22 And then prior to the examination</p> <p>23 generally sometimes they play a video on the</p> <p>24 computer and say, you know, this is what we</p>	<p style="text-align: right;">Page 172</p> <p>1 currently; do you know?</p> <p>2 THE WITNESS: I do, yes. She's an</p> <p>3 attending physician at I think Main Line</p> <p>4 Spine.</p> <p>5 DR. DALY: Out on the Main Line?</p> <p>6 THE WITNESS: Correct.</p> <p>7 DR. DALY: And do Dr. Maitin and</p> <p>8 Dr. Dua continue to be close friends?</p> <p>9 THE WITNESS: I can't speak to</p> <p>10 that.</p> <p>11 DR. DALY: You don't know that?</p> <p>12 THE WITNESS: No.</p> <p>13 DR. DALY: But you thought they</p> <p>14 were close friends back in 2012 or '14 or</p> <p>15 whatever?</p> <p>16 THE WITNESS: Yeah. We all had</p> <p>17 different relationships with each other and</p> <p>18 they were close friends. That's all I'm</p> <p>19 aware of.</p> <p>20 DR. DALY: So you're just aware of</p> <p>21 their friendship?</p> <p>22 THE WITNESS: Yes.</p> <p>23 DR. DALY: Are you friends with Dr.</p> <p>24 Weinik?</p>
<p style="text-align: right;">Page 171</p> <p>1 are going to do and then do it.</p> <p>2 DR. DALY: But you didn't go back a</p> <p>3 week later and watch a video and say here's</p> <p>4 how you do this and that exam?</p> <p>5 THE WITNESS: No.</p> <p>6 DR. DALY: I understand. And you</p> <p>7 described how the subjects, the models</p> <p>8 volunteer, basically students, residents were</p> <p>9 volunteering. Did they volunteer? Because</p> <p>10 we have also heard they were "grabbed" by</p> <p>11 whoever the instructor was and asked to be a</p> <p>12 model.</p> <p>13 THE WITNESS: I don't recall that.</p> <p>14 DR. DALY: You don't. So something</p> <p>15 happened, somebody became a model but you're</p> <p>16 not sure how that happened?</p> <p>17 THE WITNESS: I'm not sure.</p> <p>18 DR. DALY: Got you. I understand.</p> <p>19 The other -- there has been this</p> <p>20 floating thing about Dr. Dua and Dr. Maitin.</p> <p>21 And it's been said a couple of times "I don't</p> <p>22 want to imply anything but."</p> <p>23 Can you just tell us more.</p> <p>24 Dr. Maitin is still here. Where is Dr. Dua</p>	<p style="text-align: right;">Page 173</p> <p>1 THE WITNESS: I am.</p> <p>2 DR. DALY: Close friends?</p> <p>3 THE WITNESS: Yes.</p> <p>4 DR. DALY: Okay. I'm just trying</p> <p>5 to figure out friends and close friends.</p> <p>6 Thanks.</p> <p>7 Anything else from anybody? Karen,</p> <p>8 do you have any questions?</p> <p>9 DR. LIN: No.</p> <p>10 DR. COWELL: Can I just ask --</p> <p>11 DR. DALY: Well, you have had your</p> <p>12 chance.</p> <p>13 DR. COWELL: Thank you.</p> <p>14 MR. QUEENAN: I'm still trying to</p> <p>15 clarify because you're the second person now</p> <p>16 that has come up and basically essentially</p> <p>17 made this kind of almost a humorless event.</p> <p>18 You made this sound like it's an almost</p> <p>19 humorous event when they are examining and</p> <p>20 I'm trying to -- the point I'm trying to get</p> <p>21 to --</p> <p>22 THE WITNESS: I wouldn't use the</p> <p>23 word humorous. I wasn't trying to be</p> <p>24 humorous.</p>

<p style="text-align: right;">Page 174</p> <p>1 MR. QUEENAN: No, humorless.</p> <p>2 THE WITNESS: Humorless.</p> <p>3 MR. QUEENAN: Like the whole</p> <p>4 examination process there was never any kind</p> <p>5 of jovialty at all to it which -- is that</p> <p>6 correct? There was never any kind of -- no</p> <p>7 one ever laughed, no one ever -- this never</p> <p>8 happened?</p> <p>9 THE WITNESS: Not on my end.</p> <p>10 MR. QUEENAN: You don't recall any?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. QUEENAN: Okay, that's fine.</p> <p>13 THE WITNESS: It's eight in the</p> <p>14 morning there. It's kind of early, so not my</p> <p>15 end.</p> <p>16 MR. QUEENAN: I've been through the</p> <p>17 exams, I've selected people for the exams.</p> <p>18 DR. DALY: Anything else from you,</p> <p>19 Dr. Lin?</p> <p>20 DR. LIN: No.</p> <p>21 DR. DALY: Thanks very much. We</p> <p>22 appreciate you're being here. Thank you very</p> <p>23 much. You can leave now. Thank you.</p> <p>24 (Witness excused.)</p>	<p style="text-align: right;">Page 176</p> <p>1 Chair's permission. I have these nine on</p> <p>2 call. I can let them know they don't have to</p> <p>3 come.</p> <p>4 MR. QUEENAN: They don't need to</p> <p>5 come.</p> <p>6 MR. CASTOR: It's all the same</p> <p>7 stuff.</p> <p>8 DR. DALY: They do not have to</p> <p>9 come. If you wish to text them during this</p> <p>10 part you are certainly welcome to, either you</p> <p>11 or your colleague.</p> <p>12 ---</p> <p>13 DR. DALY: The court reporter will</p> <p>14 swear you in. If you could give her your</p> <p>15 name and spelling of your name.</p> <p>16 THE WITNESS: Ilya Ilgonikov,</p> <p>17 I-L-Y-A I-L-G-O-N-I-K-O-V.</p> <p>18 ILYA ILGONIKOV, M.D., after having</p> <p>19 been first duly sworn, was examined and</p> <p>20 testified as follows:</p> <p>21 ---</p> <p>22 EXAMINATION</p> <p>23 ---</p> <p>24</p>
<p style="text-align: right;">Page 175</p> <p>1 DR. DALY: Can I ask you, though,</p> <p>2 how many additional and what is the relevance</p> <p>3 of some of these that you have for the</p> <p>4 people? So, first, how many.</p> <p>5 DR. WEINIK: Two I think.</p> <p>6 MR. CASTOR: I think there's two</p> <p>7 more, and Dr. Weinik.</p> <p>8 DR. DALY: And Dr. Weinik,</p> <p>9 certainly, and closing statements.</p> <p>10 MR. CASTOR: In answer to one of</p> <p>11 the questions that I was asked earlier, I</p> <p>12 have nine that are on call that would testify</p> <p>13 essentially the same as the ones you have</p> <p>14 heard.</p> <p>15 MR. QUEENAN: This individual was</p> <p>16 kind of the same testimony as the last one.</p> <p>17 MR. CASTOR: Yes, but I kind of</p> <p>18 think he eyewitnessed something. I do think</p> <p>19 it's important.</p> <p>20 DR. WEINIK: The importance of</p> <p>21 these individuals is that they are from</p> <p>22 different years.</p> <p>23 DR. DALY: That's fine.</p> <p>24 MR. CASTOR: I wanted to ask the</p>	<p style="text-align: right;">Page 177</p> <p>1 BY DR. WEINIK:</p> <p>2 Q. Thank you, Doctor, for coming. Thank</p> <p>3 you for being patient and thank you for arranging</p> <p>4 your schedule to be here.</p> <p>5 You and I know each other?</p> <p>6 A. Yes.</p> <p>7 Q. How is it that we know each other?</p> <p>8 A. You helped train me and you have been my</p> <p>9 mentor for most of residency as well as since.</p> <p>10 Q. And you eventually became a chief</p> <p>11 resident as well?</p> <p>12 A. Yes.</p> <p>13 Q. So you and I worked together?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever see anything that led you</p> <p>16 to conclude that I spent more time with young</p> <p>17 female patients than with other patients?</p> <p>18 A. You definitely spent more time with</p> <p>19 certain patients but you spent more time with, you</p> <p>20 know, most of your patients than other doctors</p> <p>21 that I know. VIP patients that came in you spent</p> <p>22 with more time, female patients in general you</p> <p>23 spent more time with. You know, you gave the</p> <p>24 patients the time that they needed.</p>

<p style="text-align: right;">Page 178</p> <p>1 Q. Do you agree with any claim that I only 2 used female residents as models? 3 A. Absolutely not. 4 Q. Were you yourself such a model? 5 A. I have, yeah, been your model on 6 multiple occasions. 7 Q. Were you at Temple -- when you were at 8 Temple did you know a doctor named Phillip 9 Acevedo? 10 A. I did. 11 Q. So if Dr. Acevedo insists that I only 12 used females models, is he lying about that? 13 A. That is the absolutely not true. 14 Q. Was Dr. Acevedo in the residency 15 program? 16 A. Yes. 17 Q. Are you aware of an incident where Dr. 18 Acevedo accused me of exposing too much buttocks 19 in the preparation for an injection? 20 A. I have heard of that incident, yes. 21 Q. Tell me what you know about that 22 incident. 23 A. I heard that you were performing a 24 sacroiliac joint injection, you draped the</p>	<p style="text-align: right;">Page 180</p> <p>1 resident for most of his residency. He was 2 delinquent and late as a PGY-2 when I knew him as 3 well as a PGY-3, and I heard that that only got 4 worse from one of his -- from one of the chiefs 5 during his PGY-4 year. 6 Q. Are you aware that Dr. -- are you aware 7 of Dr. Acevedo being angry with me when he did not 8 get a particular fellowship in York, Pennsylvania? 9 A. I have heard that account, yes. 10 Q. Tell us what you know about that. 11 A. That within a short period of time of 12 him not getting that fellowship that some of those 13 complaints came about. 14 Q. Do you have any knowledge one way or the 15 other whether I had any hand in Dr. Acevedo not 16 getting a fellowship in York? 17 A. I don't know about that. 18 Q. How about a resident named Cora Brown, 19 do you know her? 20 A. Unfortunately, yes. 21 Q. How do you know her? 22 A. She was one of my co-residents in my 23 class. 24 Q. Why do you say unfortunately?</p>
<p style="text-align: right;">Page 179</p> <p>1 patient. Supposedly Dr. Acevedo felt 2 uncomfortable with that and stepped out of the 3 room, and that he thought it was inappropriate and 4 that no one else in the room, you know, had any 5 discomfort with that and you did the procedure. 6 The patient didn't complain. Nothing came of it 7 as far as I was concerned -- as far as I heard. 8 Q. Do you know Dr. Williams? 9 A. Yes. 10 Q. Are you aware with that Dr. Williams was 11 a witness to this particular procedure? 12 A. Yes. 13 Q. As between Dr. Williams and Dr. Acevedo, 14 whose account of what happened would you believe? 15 A. I don't know how you can drape a patient 16 inappropriately for that procedure. You know, 17 when you do a sacroiliac joint injection you have 18 to expose a large area to be sterile. 19 Furthermore, I don't know what -- from what 20 experience Dr. Acevedo would draw other than the 21 teachings of yourself and Dr. Williams to do that 22 procedure. 23 Q. What sort of resident was Dr. Acevedo? 24 A. I mean Dr. Acevedo had trouble as a</p>	<p style="text-align: right;">Page 181</p> <p>1 A. Cora Brown was by far the most 2 untrustworthy and vindictive and poorly ethical 3 physician that I have met at my time at Temple. 4 Q. So this is your experience concerning 5 her at work ethic and character? 6 A. And I think -- I have had multiple 7 conversations with other physicians, attendings, 8 Dr. Maitin in particular, as well as most of my 9 co-residents that would agree that she lacks 10 quality of care and work ethic. 11 Q. During what period of time, what years 12 would you say? 13 A. For all of the residency. I mean from 14 the very beginning she was trying to get out of 15 any kind of work that she could. She openly 16 flaunted taking money to go to the AAPM&R 17 conference, our national conference. She openly 18 bragged about taking the money, signing up to go 19 to that conference and then not going and keeping 20 the money. She was bragging about that to people 21 in my class. 22 Q. Was she prosecuted for that? 23 A. No. 24 Q. Did Temple know about that?</p>

<p style="text-align: right;">Page 182</p> <p>1 A. Not that I am aware of.</p> <p>2 Q. Again, for example, as between Dr.</p> <p>3 Williams and Dr. Brown, if describing the same</p> <p>4 incident, who would you believe knowing them both</p> <p>5 as you do?</p> <p>6 A. I mean I would trust Dr. Williams'</p> <p>7 character far above Dr. Brown's.</p> <p>8 DR. WEINIK: Thank you very much.</p> <p>9 I know it was difficult. I appreciate you</p> <p>10 being here.</p> <p>11 DR. DALY: Dr. Cowell.</p> <p>12 ---</p> <p>13 EXAMINATION</p> <p>14 ---</p> <p>15 BY DR. COWELL:</p> <p>16 Q. Thank you for being patient with us.</p> <p>17 Just a few questions.</p> <p>18 One, I'm very impressed with the</p> <p>19 comments you made about the mentorship that</p> <p>20 Dr. Weinik has provided you and I'm very impressed</p> <p>21 about some of the comments you had about Dr. Brown</p> <p>22 and Dr. Acevedo.</p> <p>23 What would Dr. Brown and Dr.</p> <p>24 Acevedo have to say about you?</p>	<p style="text-align: right;">Page 184</p> <p>1 thinks about me and I just try to stay out of her</p> <p>2 way.</p> <p>3 Q. So you would doubt any credibility with</p> <p>4 anything that they would share about their</p> <p>5 personal experiences?</p> <p>6 A. Cora Brown, absolutely. I would not</p> <p>7 trust a word that she says.</p> <p>8 Q. Have you ever been witness exposed to</p> <p>9 participate in any communication where you have</p> <p>10 heard the term "They just got Weinik-ed" or</p> <p>11 "That's just Weinik being Weinik"?</p> <p>12 A. Yes, but not in the context I think you</p> <p>13 mean. I mean --</p> <p>14 Q. What do I mean?</p> <p>15 A. I think you mean in terms of like</p> <p>16 examining young female patients as was kind of</p> <p>17 brought up in the initial examination. I mean</p> <p>18 Dr. Weinik was not known for his efficiency. And</p> <p>19 so when someone says oh, that's a Weinik patient,</p> <p>20 that to me means that's a patient who Weinik was</p> <p>21 going to take a longer amount of time for.</p> <p>22 Q. Why would you interpret that that's what</p> <p>23 I meant?</p> <p>24 A. Because that was the initial commentary</p>
<p style="text-align: right;">Page 183</p> <p>1 A. I tried to mentor Dr. Acevedo when he</p> <p>2 was a young resident. I would like to think that</p> <p>3 he would speak highly of me. I never really got</p> <p>4 into any conflict with him. I tried to kind of</p> <p>5 mentor him. Particularly when he was a PGY-2 he</p> <p>6 had an episode when he had a seizure and he had</p> <p>7 difficulty coming back to his -- to being a</p> <p>8 resident full time afterwards. He took I believe</p> <p>9 one or two weeks off during his PGY-2 year to kind</p> <p>10 of recover from that. And, you know, after that</p> <p>11 time when he did come back there was some question</p> <p>12 about, you know, whether he fully capable and he</p> <p>13 confided in me and said, you know, "I'm not fully</p> <p>14 there but I'm afraid to admit that." And I tried</p> <p>15 to tell him hey, you need to be honest in this</p> <p>16 situation.</p> <p>17 So I would like to think that, you</p> <p>18 know, he and I have enough of a rapport where I</p> <p>19 would -- he would speak highly of me.</p> <p>20 Cora Brown, I quickly learned that</p> <p>21 I would not be friendly or collegial with her. I</p> <p>22 tried to stay out of her way as I know most people</p> <p>23 did because I know for a fact she's very</p> <p>24 vindictive. And I honestly don't know what she</p>	<p style="text-align: right;">Page 185</p> <p>1 that I got in the initial questioning.</p> <p>2 DR. COWELL: Thank you.</p> <p>3 DR. DALY: A couple of things I</p> <p>4 might ask you. You talked about the Acevedo</p> <p>5 event, that is the woman with the buttocks.</p> <p>6 How did you hear about that and when did you</p> <p>7 hear about that?</p> <p>8 THE WITNESS: I mean I heard about</p> <p>9 it from several of the residents.</p> <p>10 DR. DALY: At the time that it</p> <p>11 happened or more recently?</p> <p>12 THE WITNESS: Afterwards,</p> <p>13 afterwards when this started transpiring.</p> <p>14 DR. DALY: So not until this event</p> <p>15 in which there were some accusations relative</p> <p>16 to Dr. Weinik you mean?</p> <p>17 THE WITNESS: Yes.</p> <p>18 DR. DALY: Is that when you're --</p> <p>19 I'm just trying to get a sense of time.</p> <p>20 THE WITNESS: Yes.</p> <p>21 DR. DALY: So that then became,</p> <p>22 became general knowledge amongst the</p> <p>23 residents, is that what you are saying --</p> <p>24 THE WITNESS: Yes.</p>

<p style="text-align: right;">Page 186</p> <p>1 DR. DALY: -- after the Medical</p> <p>2 Staff Executive Committee was interviewing a</p> <p>3 number of residents, et cetera?</p> <p>4 THE WITNESS: After Dr. Weinik was</p> <p>5 removed from his employment.</p> <p>6 DR. DALY: So after that. But not,</p> <p>7 not anywhere near the time that the event</p> <p>8 occurred?</p> <p>9 THE WITNESS: No.</p> <p>10 DR. DALY: So this -- and would</p> <p>11 that be the same thing with hearing about</p> <p>12 this fellowship relative to this gentleman,</p> <p>13 that he might not have gotten a fellowship in</p> <p>14 York because of something that Dr. Weinik did</p> <p>15 or did not do? Would that have also occurred</p> <p>16 more recently now?</p> <p>17 THE WITNESS: Yes.</p> <p>18 DR. DALY: Rather than before. So</p> <p>19 a lot of this has been things that you have</p> <p>20 heard within the last whatever number of</p> <p>21 months?</p> <p>22 THE WITNESS: Yes.</p> <p>23 DR. DALY: Not back previously?</p> <p>24 THE WITNESS: No.</p>	<p style="text-align: right;">Page 188</p> <p>1 THE WITNESS: I don't know if they</p> <p>2 made phone calls on my behalf. They</p> <p>3 definitely answered phone calls on my behalf.</p> <p>4 DR. DALY: Would that -- okay. So</p> <p>5 do you owe your job to either Dr. Weinik,</p> <p>6 Dr. Maitin for some of that?</p> <p>7 THE WITNESS: To Dr. Weinik</p> <p>8 partially.</p> <p>9 DR. DALY: I see. All right.</p> <p>10 Karen.</p> <p>11 DR. LIN: You made some -- you have</p> <p>12 some very strong feelings with regard to</p> <p>13 Dr. Cora Brown.</p> <p>14 THE WITNESS: Yes.</p> <p>15 DR. LIN: And one of the adjectives</p> <p>16 you said specifically was vindictive.</p> <p>17 THE WITNESS: Mm-hmm.</p> <p>18 DR. LIN: What kind of -- were</p> <p>19 there any specific encounters that you two</p> <p>20 had that kind of lead you to that? What were</p> <p>21 examples that kind of lead you to say that</p> <p>22 she was vindictive?</p> <p>23 THE WITNESS: I mean I knew of the</p> <p>24 incidents between -- so I was a chief</p>
<p style="text-align: right;">Page 187</p> <p>1 DR. DALY: I see. So it's -- I</p> <p>2 just tried to get a sense that some of this</p> <p>3 has become knowledge with people talking</p> <p>4 amongst people about what's transpired since</p> <p>5 the Medical Staff Executive Committee has</p> <p>6 either interviewed people or talked, et</p> <p>7 cetera.</p> <p>8 THE WITNESS: Yes.</p> <p>9 DR. DALY: I see. So that's your</p> <p>10 frame of reference and knowledge.</p> <p>11 THE WITNESS: Yes.</p> <p>12 DR. DALY: I got you. I understand</p> <p>13 now a bit more. Okay. And where are you</p> <p>14 now? I'm sorry.</p> <p>15 THE WITNESS: University of</p> <p>16 Pennsylvania.</p> <p>17 DR. DALY: Doing what?</p> <p>18 THE WITNESS: Interventional.</p> <p>19 DR. DALY: You're in PM&R. You're</p> <p>20 a faculty member there?</p> <p>21 THE WITNESS: Yes.</p> <p>22 DR. WEINIK: I see. And did</p> <p>23 Dr. Weinik or Dr. Maitin help you in terms of</p> <p>24 getting that position?</p>	<p style="text-align: right;">Page 189</p> <p>1 resident my PGY-4 year and there were a</p> <p>2 couple of things that happened in trying to</p> <p>3 get her to take, you know, not necessarily</p> <p>4 extra call but to do what was expected of</p> <p>5 her, her expected job. There was one</p> <p>6 rotation we work out in Abington where you</p> <p>7 have to cover a weekend and her trying to</p> <p>8 excuse herself from that and I was trying to</p> <p>9 reinstate or reinforce, no, you have to do</p> <p>10 your job turned into, you know, her</p> <p>11 threatening not to do other parts of her job</p> <p>12 or her trying to like back out of other</p> <p>13 obligations.</p> <p>14 You know, I have had conversations</p> <p>15 with Amber in the past where she's said, and</p> <p>16 I quote, you know, she's afraid to cross or</p> <p>17 kind of reprimand Cora particularly in person</p> <p>18 because she's afraid that she will, you know,</p> <p>19 come after her job or something, you know, if</p> <p>20 something doesn't go her way.</p> <p>21 DR. DALY: Do the faculty rate the</p> <p>22 residents on a regular basis in terms of --</p> <p>23 THE WITNESS: Here?</p> <p>24 DR. DALY: Do they have faculty</p>

<p style="text-align: right;">Page 190</p> <p>1 meetings, the PM&R faculty I mean rate the</p> <p>2 residents how they are doing, how they are</p> <p>3 progressing, things like that?</p> <p>4 THE WITNESS: Yes.</p> <p>5 DR. DALY: And are you aware of any</p> <p>6 derogatory comments or bad ratings for either</p> <p>7 of these people, Acevedo or Cora Brown?</p> <p>8 THE WITNESS: As their co-resident</p> <p>9 I was never --</p> <p>10 DR. DALY: You weren't aware of any</p> <p>11 of that?</p> <p>12 THE WITNESS: No, that was above my</p> <p>13 level at the time.</p> <p>14 DR. DALY: As chief resident did</p> <p>15 you participate in any of that? You did not?</p> <p>16 THE WITNESS: No. We helped kind</p> <p>17 of reprimand and kind of steer the ship but</p> <p>18 we weren't involved in any formal.</p> <p>19 DR. DALY: I understand. Some</p> <p>20 programs are.</p> <p>21 THE WITNESS: Yes.</p> <p>22 DR. DALY: Thank you.</p> <p>23 Anything?</p> <p>24 MR. QUEENAN: I'm trying to get the</p>	<p style="text-align: right;">Page 192</p> <p>1 prepare for one of these things and maybe</p> <p>2 that's why he thought that this was not</p> <p>3 draped properly. But you're saying he was</p> <p>4 towards the end of his career.</p> <p>5 THE WITNESS: I think it was at the</p> <p>6 end of his.</p> <p>7 MR. QUEENAN: I'm just trying to</p> <p>8 flesh out some things.</p> <p>9 THE WITNESS: As far as I know,</p> <p>10 this incident happened during his PGY-4 year.</p> <p>11 MR. QUEENAN: And both of these</p> <p>12 residents obviously graduated, Brown and</p> <p>13 Acevedo?</p> <p>14 THE WITNESS: Yes.</p> <p>15 MR. QUEENAN: They did?</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. QUEENAN: Some questions about</p> <p>18 the honesty, certain things of their</p> <p>19 character. It was common knowledge this</p> <p>20 person essentially stole money from Temple?</p> <p>21 THE WITNESS: Amongst the</p> <p>22 residents.</p> <p>23 MR. QUEENAN: Do you know who had</p> <p>24 oversight on those type of things?</p>
<p style="text-align: right;">Page 191</p> <p>1 timing down. So there's some question about</p> <p>2 the application for the fellowship, Acevedo</p> <p>3 was upset about that. This incident, though,</p> <p>4 occurred before he ever applied for</p> <p>5 fellowship. It would seem to be given --</p> <p>6 THE WITNESS: That I don't know</p> <p>7 about the timing.</p> <p>8 MR. QUEENAN: You had applied</p> <p>9 yourself toward the end of your residency</p> <p>10 career I think.</p> <p>11 THE WITNESS: There are several</p> <p>12 fellowship applications and depending on the</p> <p>13 accredited pain fellowship matches at the end</p> <p>14 of one's PGY-3 year and then there's a</p> <p>15 unaccredited sports and spine match October</p> <p>16 of your PGY-4 year, and then I'm not sure</p> <p>17 which of those Dr. Acevedo was applying for</p> <p>18 but I think this incident happened</p> <p>19 afterwards.</p> <p>20 MR. QUEENAN: Late in his career?</p> <p>21 THE WITNESS: Later in his PGY --</p> <p>22 MR. QUEENAN: I was under the</p> <p>23 impression he would not really have</p> <p>24 understood the full way to drape, prep,</p>	<p style="text-align: right;">Page 193</p> <p>1 THE WITNESS: I mean Amber and me</p> <p>2 as coordinator and program director.</p> <p>3 But yeah, I mean this was something</p> <p>4 that was like within our class of residents</p> <p>5 I -- we heard about this. But, again, it's</p> <p>6 like I was saying, you know, we kind of</p> <p>7 heard -- I didn't want to cross her. I</p> <p>8 didn't want to having anything -- you know,</p> <p>9 I'm staying out of this person's way, you</p> <p>10 know.</p> <p>11 MR. QUEENAN: Okay. Thanks.</p> <p>12 DR. DALY: Anything else?</p> <p>13 MR. QUEENAN: No.</p> <p>14 DR. LIN: No.</p> <p>15 DR. DALY: Thanks very much. You</p> <p>16 can go now. We appreciate it.</p> <p>17 (Witness excused.)</p> <p>18 DR. WEINIK: Final outside witness,</p> <p>19 Dr. Aversa. Thank you for coming in. Please</p> <p>20 have a seat.</p> <p>21 THE WITNESS: Of course.</p> <p>22 JUSTIN AVERNA, D.O., after having</p> <p>23 been first duly sworn, was examined and</p> <p>24 testified as follows:</p>

<p style="text-align: right;">Page 194</p> <p>1 THE WITNESS: Justin Avera,</p> <p>2 A-V-E-R-N-A.</p> <p>3 - - -</p> <p>4 EXAMINATION</p> <p>5 - - -</p> <p>6 BY DR. WEINIK:</p> <p>7 Q. Thank you for coming so far from New</p> <p>8 Mexico, Dr. Avera.</p> <p>9 A. Of course.</p> <p>10 Q. Thank you for being patient and waiting</p> <p>11 to be the last one to speak tonight.</p> <p>12 Is this matter the only reason you</p> <p>13 became for your trip?</p> <p>14 A. Correct.</p> <p>15 Q. Do you and I know each other?</p> <p>16 A. Yes, we do.</p> <p>17 Q. How do we know each other?</p> <p>18 A. I think I met you back in 2008 when I</p> <p>19 suffered a spine injury.</p> <p>20 MR. CASTOR: A little louder</p> <p>21 please.</p> <p>22 A. I met you in 2008 when I suffered a</p> <p>23 spine injury. I saw you in the outpatient clinic.</p> <p>24</p>	<p style="text-align: right;">Page 196</p> <p>1 Q. During the time we worked together you</p> <p>2 and I were in a position to see and interact --</p> <p>3 you were in a position to see and interact with me</p> <p>4 many patients; is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. Assuming that Temple investigators have</p> <p>7 accurately reported what Dr. Acevedo told them, do</p> <p>8 you agree with his accusations concerning the</p> <p>9 amount of time I spent with young female patients?</p> <p>10 A. I do not. Can I elaborate on that?</p> <p>11 Q. What were your observations?</p> <p>12 A. So my observations are you have had</p> <p>13 patients for 20, 30 years that you see on a</p> <p>14 frequent basis. It can be an 80 year old with a</p> <p>15 hip bone on bone and you spend 40 minutes with</p> <p>16 them and you spend the same amount of time with</p> <p>17 the majority of your patients, I think especially</p> <p>18 the ones where there is a history where you have</p> <p>19 known the family, the whole family comes in and</p> <p>20 you check in with the daughters and the brothers</p> <p>21 and the sisters. So I think it's an inaccurate</p> <p>22 accusation to say that, you know, you spend more</p> <p>23 time with young females in the outpatient clinic.</p> <p>24 Q. If Dr. Acevedo insists that this is fact</p>
<p style="text-align: right;">Page 195</p> <p>1 BY DR. WEINIK:</p> <p>2 Q. During that period of time did we work</p> <p>3 together at Temple?</p> <p>4 A. Subsequently, yes, as a medical student</p> <p>5 as then as a resident.</p> <p>6 Q. And during that time frame did you also</p> <p>7 know two residents, Dr. Acevedo and Dr. Dua?</p> <p>8 A. Correct, I know both, yes.</p> <p>9 Q. How do you know them?</p> <p>10 A. Dr. Dua was in the class ahead of me and</p> <p>11 Dr. Acevedo was a PGY-2 when I was a chief during</p> <p>12 my PGY-4 year.</p> <p>13 Q. Do you have a general idea why you are</p> <p>14 here today?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And what is that understanding?</p> <p>17 A. I guess some allegations against your</p> <p>18 character and things of that nature.</p> <p>19 Q. Temple investigating doctors have</p> <p>20 testified that Dr. Acevedo told them that I made a</p> <p>21 habit of spending more time with young female</p> <p>22 patients as compared to other patients. Are you</p> <p>23 aware of this accusation against me?</p> <p>24 A. Yes, I have heard the accusation.</p>	<p style="text-align: right;">Page 197</p> <p>1 as opposed to his opinion, that I took longer with</p> <p>2 young female patients, based on your experience</p> <p>3 would that be truth or a lie?</p> <p>4 A. Well, knowing him as a problem resident,</p> <p>5 that would be a lie for sure.</p> <p>6 Q. When you were a resident and chief</p> <p>7 resident did you know another resident named Dr.</p> <p>8 Dua?</p> <p>9 A. I did, yes.</p> <p>10 Q. I'm sorry, let me go back a little bit.</p> <p>11 Can you tell me why you think Dr. Acevedo was a</p> <p>12 problem resident?</p> <p>13 A. Well, me and the other chiefs had to</p> <p>14 meet multiple times, one about his</p> <p>15 professionalism, showing up late, being suspended</p> <p>16 from the hospital for not doing dictation in a</p> <p>17 timely manner, from other attendings coming to the</p> <p>18 chief saying we don't feel that he's safe on the</p> <p>19 floors taking care of patients. Also, to his</p> <p>20 attitude with superiors in terms of being</p> <p>21 attendings in general. He rubbed a lot of</p> <p>22 attendings the wrong way and did not work well or</p> <p>23 really was not good in a team environment.</p> <p>24 So me personally, I had to take him</p>

<p style="text-align: right;">Page 198</p> <p>1 under my wing and kind of groom him how to be an 2 adult and you're a physician and this is how we 3 work in the hospital and things of that nature. 4 There's just multiple things. He 5 failed his boards, he should have been dismissed. 6 I mean he was just one of the residents we had 7 frequent meetings about as chiefs. 8 Q. When you were a resident and chief 9 resident did you know another resident named Dr. 10 Dua? 11 A. Yes. 12 Q. Are you aware of another allegation 13 against me that at a lecture between four and six 14 years ago between January of 2012 to 2014 I acted 15 inappropriately with Dr. Dua while she acted as a 16 model? 17 A. Yes, I know the allegation. 18 Q. Were you at that lecture? 19 A. I was. 20 Q. Where did the lecture take place? 21 A. At PCOM. 22 Q. Can you describe the lecture, what the 23 lecture was about and how many people were there? 24 A. Yes. So the lecture was a hands-on</p>	<p style="text-align: right;">Page 200</p> <p>1 A. Yes, I do. 2 Q. Explain how that works. 3 A. So essentially either someone volunteers 4 or someone is called up and Dr. Weinik would kind 5 of go through a kind of head to toe, shoulder, 6 hip, knee and a certain part of the body is 7 examined. So a former chief, a co-chief, Adam 8 Mullan, he had the shoulder so he was shirtless 9 for an hour and was examined on stage in front of 10 everyone for an hour. And then, you know, other 11 people picked different body parts, hip, knee, 12 ankle, spine. And it was just either volunteer 13 or, you know, someone was called out of the 14 audience. 15 Q. Do you recall anything out of the 16 ordinary about that event where Dr. Dua acted as a 17 model with me? 18 A. Say that again. I'm sorry. 19 Q. Do you recall anything out of the 20 ordinary about the event where Dr. Dua acted as a 21 model with me? 22 A. I do not, no. 23 Q. Do you recall me making comments or 24 jokes at Dr. Dua's expense making the class laugh?</p>
<p style="text-align: right;">Page 199</p> <p>1 musculoskeletal course that the chiefs, myself and 2 the chiefs above me schedule every year at PCOM 3 and it would be a hands-on manipulation room. So 4 essentially it's examination tables similar to 5 massage tables. Approximately 30 residents are 6 there. All the medical students are there. 7 It's a once-a-year kind of off 8 location kind of specialty hand-on learning. So 9 it's ingrained in my mind because it's a pain to 10 schedule and accommodate PCOM students as well as 11 our faculty here at Temple. 12 And essentially Dr. Weinik is 13 leading that. He's on stage, an elevated stage 14 and there's a camera that you can see straight 15 down on the patient as well as you can see 16 Dr. Weinik. There's multiple views. And during 17 those examinations he would call up both male and 18 females for examination of the shoulder, knee, 19 hip, whatever kind of musculoskeletal examination. 20 And that was a good three- to four-hour, yes, 21 probably three- to four-hour hands-on learning 22 experience in lieu of our grand rounds. 23 Q. Do you recall Dr. Dua acting as a 24 demonstration model?</p>	<p style="text-align: right;">Page 201</p> <p>1 A. No, I do not. 2 Q. Do you recall me touching her in a way 3 you thought to be inappropriate? 4 A. No, for sure. 5 Q. And by the way, I ask this again. When 6 I asked if the room was wired for sound and video, 7 was it also wired to amplify my voice? 8 A. Yes, you had a mic on. 9 Q. Do you think you would have noticed had 10 I humiliated one of your residents, fellow 11 residents at this lecture? 12 A. Of course, because the examination table 13 is up on the stage and there's a camera pointing 14 down to exactly where your hands are on the body 15 and what you are doing at that time. So it would 16 have been grossly obvious if it was inappropriate 17 or out of character or she would have responded in 18 a way in which, you know, she felt it was 19 inappropriate. But she remained on the 20 examination table, so I don't remember anything 21 out of character or anything inappropriate. 22 Q. Were there any -- were my words 23 appropriate during that? 24 A. Yes.</p>

<p style="text-align: right;">Page 202</p> <p>1 Q. I didn't say anything that would seem 2 offensive to you or other people? 3 A. No. 4 Q. Are you confident that I did not? 5 A. Yeah. I mean we are at a guest campus 6 and we have fellows from PCOM there and we have 7 medical students in attendance and all the 8 residents and that would be the worst time to say 9 things inappropriately and I don't remember 10 anything inappropriate so. . . 11 Q. So who is Dr. Maitin? 12 A. So during my stay here he was the chair 13 and the program director and subsequently was just 14 the program director once I left. 15 Q. And what was the other change? It was 16 just a program director. Did I change my position 17 during that time? 18 A. Yes, I believe you became intern chair 19 as Temple felt there was a conflict of interest 20 for one person to be both the program director and 21 the chair which doesn't exist in medicine but it 22 did here. 23 Q. Now, I am not trying to imply anything 24 improper. But did you ever become aware of rumors</p>	<p style="text-align: right;">Page 204</p> <p>1 BY DR. COWELL: 2 Q. Thank you for being so patient. 3 A. Sure. 4 Q. I just wanted to clarify a few things. 5 Dr. Acevedo, you mentioned -- 6 DR. WEINIK: His name is 7 Dr. Aversa. 8 DR. DALY: He's asking -- 9 MR. QUEENAN: He's asking about 10 Dr. Acevedo. 11 DR. WEINIK: Excuse me. 12 BY DR. COWELL: 13 Q. Dr. Acevedo's credibility based on the 14 few encounters that you had that shed some shade 15 on that. Do you suggest that anything coming from 16 his behavior would suggest it less than being 17 credible? 18 A. Oh, sure. Even as chief resident 19 directly overseeing him he should have been fired 20 on multiple occasions for his behavior, his 21 unprofessionalism. We had to give him extra 22 calls. I mean he had a lot of extra chances and 23 probably at any other institution he would have 24 been fired.</p>
<p style="text-align: right;">Page 203</p> <p>1 that Dr. Dua and Dr. Maitin were friends? 2 A. Yeah, I heard that on multiple 3 occasions. And even more so as a chief we would 4 meet frequently with you and with Dr. Cruz and 5 with Dr. Maitin, and on multiple occasions she 6 would be in his office when she was on a different 7 rotation and she would be like, "Oh, today was a 8 slow day and I just decided to stop by." And I 9 can remember five to seven instances of seeing her 10 in his office when she was supposed to be on her 11 rotation in New Jersey or at Children's Hospital 12 or elsewhere. So that clearly is ingrained in my 13 mind as something that's not normal or -- 14 especially in that frequency. 15 Q. Did the Temple investigators ever to 16 your knowledge try to contact you to discuss my 17 case and what you might know about it? 18 A. No. 19 DR. WEINIK: That's it for me. 20 DR. DALY: Dr. Cowell. 21 --- 22 EXAMINATION 23 --- 24</p>	<p style="text-align: right;">Page 205</p> <p>1 Q. Who was the chair during the time frame 2 when you think he should have been fired? 3 A. Dr. Maitin. 4 Q. So over the extended period was 5 Dr. Weinik every chair? 6 A. No. Dr. Maitin was chair in title but 7 the chiefs would discuss things and Dr. Maitin 8 would let us decide because he was, I don't want 9 to say not present but he was not involved. 10 Q. With Dr. Dua, how was Dr. Dua selected 11 as the model for that particular scenario that was 12 being -- 13 A. I believe she volunteered. I don't 14 remember specifics but I believe she volunteered. 15 Q. So Dr. Weinik didn't select her? 16 A. Not to my knowledge, no. 17 Q. I have heard this reference about 18 friends, Dr. Dua and Dr. Maitin. I was suggesting 19 that -- I guess we can leave it up to our 20 interpretation to figure what the implication 21 means. Can you clarify that for me just so I can 22 understand what the relevance of a friend is? 23 A. Yeah. So kind of residents have the 24 responsibility and duty to be on a service and she</p>

<p style="text-align: right;">Page 206</p> <p>1 spent a lot of time in his office, not just noted 2 by me and my co-chiefs but the chiefs above me who 3 were in her class. I don't want to suggest 4 anything but something might have been going on 5 between the two of them to be spending so much 6 time together. I don't know that as a fact 7 but. . . 8 Q. Okay. 9 A. I'm not randomly hanging out in, you 10 know, a female attendings' office during my down 11 time or whenever rotation is slow. 12 Q. So you don't know? 13 A. I don't know but frequently the door was 14 closed and knock on the door and she would be 15 there so. . . 16 Q. So, what is the implication that they 17 were friends? I'm still trying to understand what 18 the relevance is. 19 A. I don't know. It's kind of the same 20 questioning we have here. It's kind of for your 21 interpretation I believe. 22 DR. COWELL: Thank you so much. 23 DR. DALY: Justin, thanks very much 24 for coming in. At the very beginning I think</p>	<p style="text-align: right;">Page 208</p> <p>1 you about that? 2 THE WITNESS: I think I initially 3 heard it from a chief resident, I haven't 4 talked to Dr. Weinik for a while, down in 5 Florida. Adam Mullan stated I guess -- 6 DR. DALY: He was one of your 7 co-chiefs? 8 THE WITNESS: Yes. We talk 9 frequently and he said I guess Dr. Weinik is 10 on administrative reason for some reason. He 11 didn't know. 12 DR. DALY: Did you get a chance to 13 talk with any other folks in the room about 14 any of this? 15 THE WITNESS: No. They just said 16 it was grilling is all they said. No 17 specifics. 18 DR. DALY: Nice people but 19 grilling. 20 THE WITNESS: They said it was 21 intense, that's all, which it is. This isn't 22 a normal thing. 23 DR. DALY: Well, it's not normal, 24 no. It's not 5:30 at night. You came in at</p>
<p style="text-align: right;">Page 207</p> <p>1 Dr. Weinik said you came from afar. Where 2 are you? 3 THE WITNESS: Albuquerque, New 4 Mexico. 5 DR. DALY: Where? 6 THE WITNESS: Albuquerque. 7 DR. DALY: That's a long way. 8 THE WITNESS: Yeah. 9 DR. DALY: I have been to 10 Albuquerque. 11 THE WITNESS: I canceled my clinic 12 and got here at 3:00 a.m. this morning. 13 DR. DALY: That's a long way and a 14 long flight. Did you pay for that yourself 15 to fly in and do all this? 16 THE WITNESS: Yes. I canceled my 17 clinic. I'm a board certified physical 18 medicine rehab doc and interventionalist. I 19 cleared my schedule without objection to be 20 here to defend a man that has worked hard for 21 30 years and had some odd allegations in 22 recent classes, so. . . 23 DR. DALY: And how did you come to 24 be aware of these allegations? Who talked to</p>	<p style="text-align: right;">Page 209</p> <p>1 3:00 a.m. 2 One of the comments made by one of 3 the people, and there's a large number so you 4 can't deduce from whom, but made some 5 comments about offhanded remarks, comments, 6 jokes, et cetera, that Dr. Weinik might make 7 in the course of a day that some might find 8 inappropriate. Was that true from your 9 knowledge of your working with him? You were 10 pretty intimate with all the faculty. 11 THE WITNESS: Yeah, but I think 12 that's true of any -- we are blowing off 13 steam. Even at work when I am with my 14 colleagues in close quarters we talk about 15 patients in certain ways but it's not like 16 it's deliberate. It's more just blowing off 17 steam, things of that nature. 18 But I don't remember anything in 19 terms of Dr. Weinik speaking poorly about any 20 individual in particular. 21 DR. DALY: I wasn't thinking about 22 speaking poorly about any individual. I'm 23 thinking more about comments that you might 24 deem inappropriate that you might not say in</p>

<p style="text-align: right;">Page 210</p> <p>1 your job there in New Mexico.</p> <p>2 THE WITNESS: I would say not, not</p> <p>3 during the working day, no, for sure.</p> <p>4 DR. DALY: After hours you are</p> <p>5 talking about?</p> <p>6 THE WITNESS: If we are grabbing</p> <p>7 beers and we talk about things here and there</p> <p>8 that are relevant during our day, as well you</p> <p>9 do here with your colleagues.</p> <p>10 DR. DALY: I don't grab beers. I</p> <p>11 don't drink.</p> <p>12 THE WITNESS: Or wine or spritzers.</p> <p>13 DR. DALY: We won't get into that.</p> <p>14 Thank you for your interest, though, in my</p> <p>15 drinking habits.</p> <p>16 And so the other implication was</p> <p>17 that you and other chief residents got</p> <p>18 together and talked about your co-residents</p> <p>19 or residents beneath you.</p> <p>20 THE WITNESS: Yes. So I will kind</p> <p>21 of fill out that dynamic for you. So Dr.</p> <p>22 Maitin was the chair. So he was a captain</p> <p>23 who was asleep at the ship -- at the wheel</p> <p>24 and so the chief residents had to do all the</p>	<p style="text-align: right;">Page 212</p> <p>1 DR. LIN: Out of how many?</p> <p>2 THE WITNESS: Ten. Now it's nine,</p> <p>3 nine residents here.</p> <p>4 DR. LIN: So at the time it would</p> <p>5 be ten to 20 percent of the program were</p> <p>6 women?</p> <p>7 THE WITNESS: I have to look at our</p> <p>8 roster.</p> <p>9 DR. LIN: Ish, with the majority</p> <p>10 men?</p> <p>11 THE WITNESS: Yes.</p> <p>12 DR. LIN: Were there ever any -- as</p> <p>13 a chief -- I don't know how the residency</p> <p>14 program works. Is it all PGY-4?</p> <p>15 THE WITNESS: No. So the chiefs</p> <p>16 are voted on by faculty and the residents for</p> <p>17 promotion to be chief.</p> <p>18 DR. LIN: And so how many chief</p> <p>19 residents --</p> <p>20 THE WITNESS: It's not like it's</p> <p>21 your fourth year.</p> <p>22 DR. LIN: Right.</p> <p>23 THE WITNESS: There were four of us</p> <p>24 my year.</p>
<p style="text-align: right;">Page 211</p> <p>1 work. And a lot of times we wouldn't call</p> <p>2 Maitin because it would be too much to ask of</p> <p>3 him so we would always have to reach out to</p> <p>4 Dr. Weinik or Dr. Cruz. That's how most of</p> <p>5 the decisions were made.</p> <p>6 DR. DALY: These would be decisions</p> <p>7 about what?</p> <p>8 THE WITNESS: About disciplinary</p> <p>9 actions for problem residents, about coverage</p> <p>10 issues with people calling in for bogus</p> <p>11 things, about rescheduling lectures, about</p> <p>12 everything. Just the dynamics of how we run</p> <p>13 the program, the chief residents.</p> <p>14 DR. DALY: Chief residents do like</p> <p>15 in many programs.</p> <p>16 THE WITNESS: Yes, but they have</p> <p>17 the assistance of the chair which we didn't</p> <p>18 have. So it's a big difference.</p> <p>19 DR. DALY: Okay.</p> <p>20 DR. LIN: What percentage of the</p> <p>21 program in the time that you were there were</p> <p>22 women and what percentage were men?</p> <p>23 THE WITNESS: So now it's 50/50.</p> <p>24 Before that it was one or two a year female.</p>	<p style="text-align: right;">Page 213</p> <p>1 DR. LIN: Four out of the ten?</p> <p>2 THE WITNESS: Yes.</p> <p>3 DR. LIN: Would you say that -- I</p> <p>4 mean it sounds like you as chief residents</p> <p>5 really took the helm and had to have the</p> <p>6 pulse of what was going on in the residency</p> <p>7 and knew kind of the issues?</p> <p>8 THE WITNESS: Yeah. We had to meet</p> <p>9 with Sue Coull on multiple times, yeah.</p> <p>10 DR. LIN: Were there female chief</p> <p>11 residents in kind of the years that you were</p> <p>12 there?</p> <p>13 THE WITNESS: Yeah, Heather Galgon</p> <p>14 was a chief, probably one of the strongest</p> <p>15 chiefs we had. In my class, the two females</p> <p>16 in my class, they didn't really want to have</p> <p>17 that extra responsibility so they didn't kind</p> <p>18 of throw their name in the hat situation.</p> <p>19 DR. LIN: So it was a kind of</p> <p>20 combination of those who were specifically</p> <p>21 nominated --</p> <p>22 THE WITNESS: Yeah, it was either</p> <p>23 go in or I don't, other people just wanted to</p> <p>24 just skate by and graduate, some people want</p>

<p style="text-align: right;">Page 214</p> <p>1 to give back and be chiefs, do administrative 2 roles, work with GME, things of that nature. 3 DR. LIN: Right. There are not 4 many parts of being a chief resident that are 5 that glamorous. 6 THE WITNESS: But worth it. 7 DR. LIN: Did you feel that as, you 8 know, there -- it's hard to say. You know, I 9 think with a gender imbalance sometimes it's 10 hard to know. Would you say that you feel 11 like you had a good pulse of what was going 12 on in that people would be comfortable coming 13 to the chiefs and that you had a good sense 14 of what was going on? 15 THE WITNESS: Yeah, yeah. I mean 16 as I kind of progressed we had a bunch of 17 female medical students and I think it is 18 just kind of 60/40 now females to males. And 19 I think it's just females are kind of more 20 like a lifestyle specialty. A lot more 21 females are gravitating towards that 22 flexibility where it might have been 23 different years ago. 24 DR. DALY: When it came to Dr.</p>	<p style="text-align: right;">Page 216</p> <p>1 year and didn't want to work with him again, 2 just his professionalism and kind of 3 abrasiveness. 4 You know, I knew he was struggling, 5 having a hard time. So I was like hey, man, 6 you got to get your act together, you have to 7 play nice in the sandbox with the nurses, 8 residents, physicians. 9 DR. DALY: Did that help? 10 THE WITNESS: I think it did but 11 he's, I don't want to say hard-headed but 12 he's very stubborn. So I think it helped for 13 a while and then I could see him kind of 14 distance himself from us. But then he came 15 back once he failed his boards and asked for 16 my advice about what to do, those type of 17 things. 18 DR. DALY: Anything, Joe? 19 MR. QUEENAN: I just had a -- you 20 were mentioning kind of Dr. Maitin's 21 relationship and you mentioned that you 22 wouldn't be in a female attending's office. 23 Would you be in a male attending's office? 24 Would you ever hang out with -- I'm trying to</p>
<p style="text-align: right;">Page 215</p> <p>1 Acevedo you talked about the chiefs not 2 wanting him to progress, that is terminate 3 him, firing him. Was it then -- and Dr. 4 Maitin you described as being asleep at the 5 wheel. Was it then Dr. Weinik and Dr. Cruz 6 who said don't terminate him, he's a guy we 7 are going to keep progressing? 8 THE WITNESS: Yeah, we kind of 9 internally did an internal remediation with 10 him. When he was I guess here at Temple I 11 forget, but he had like 20-some dictations 12 that were three or four weeks overdue 13 multiple times so we would say you have to go 14 home, you don't have privileges to be on 15 campus, go home and do your dictations. That 16 happened multiple times. 17 He was late to grand rounds all the 18 time. We had to institute like a penalty 19 system. If you were late -- three lates 20 equals extra call. He ended up taking 21 multiple calls. And then Dr. Van Wine and a 22 couple other attendings mentioned they would 23 rather not work with him because he was 24 scheduled to work with him twice during the</p>	<p style="text-align: right;">Page 217</p> <p>1 figure out what the dichotomy is here. 2 THE WITNESS: Well, so the 3 clarification, the distinction here, she was 4 in his office when she was not on his 5 service. 6 MR. QUEENAN: I was asking would 7 you ever find your way into one of your male 8 attending's offices? 9 THE WITNESS: No. The only time 10 I hung out in Dr. Weinik's office was when I 11 was on his service. I wouldn't just 12 randomly. 13 MR. QUEENAN: Because you had made 14 the point of being -- you wouldn't be in a 15 female attending's office, not just an 16 attending. 17 THE WITNESS: Female, male, 18 whatever is my liking. So, yeah, it's 19 inappropriate, especially if you're not on 20 their service. 21 DR. DALY: Okay. Anything else? 22 Thanks very much for coming in. I 23 hope you get some sleep. Safe trip back. 24 THE WITNESS: I will. Thank you.</p>

<p style="text-align: right;">Page 218</p> <p>1 (Witness excused.)</p> <p>2 DR. DALY: We can -- let me ask the</p> <p>3 Panel here first do you want to take a quick</p> <p>4 bathroom break before the final comments?</p> <p>5 DR. WEINIK: I'm going to testify</p> <p>6 in my own defense to refute these allegations</p> <p>7 in person.</p> <p>8 However, before I do that, Dr. Adam</p> <p>9 Mullan, a former resident in the program was</p> <p>10 unable to come tonight from Florida where he</p> <p>11 is practicing. He did send me an e-mail</p> <p>12 statement which is short to what he would</p> <p>13 have testified to and I would like to make it</p> <p>14 part of the record and read it since it is</p> <p>15 short.</p> <p>16 DR. DALY: Can you enter it into</p> <p>17 the record so that we can have it to read</p> <p>18 since it is readable?</p> <p>19 MR. CASTOR: Very short. Yes, we</p> <p>20 can.</p> <p>21 DR. DALY: Because we still have --</p> <p>22 you still want to do something in your own</p> <p>23 defense besides that, do you?</p> <p>24 DR. WEINIK: Yes, but I just want</p>	<p style="text-align: right;">Page 220</p> <p>1 MR. CASTOR: But only one of them?</p> <p>2 DR. DALY: No, he could have both.</p> <p>3 We just want to be cognizant of the time. If</p> <p>4 the witness -- if he wants to be a witness</p> <p>5 and then have a closing statement, it would</p> <p>6 be best not to be redundant in those two</p> <p>7 episodes.</p> <p>8 MR. CASTOR: You heard that</p> <p>9 instruction. I can't speak for him.</p> <p>10 DR. DALY: We don't want you to.</p> <p>11 Thank you.</p> <p>12 MR. CASTOR: But he has evidence</p> <p>13 that he wants to present, then he expects</p> <p>14 Temple's counsel to close, then he wants to</p> <p>15 close.</p> <p>16 DR. WEINIK: It won't be Temple's</p> <p>17 counsel. It will be Dr. Cowell and Dr.</p> <p>18 Weinik will do it. I'm just asking that</p> <p>19 there not be redundancy in his being a</p> <p>20 witness and his closing statement. So if you</p> <p>21 can craft it in that way, Dr. Weinik, we all</p> <p>22 would be very grateful.</p> <p>23 DR. COWELL: There may be some</p> <p>24 overlap. I will do my best to --</p>
<p style="text-align: right;">Page 219</p> <p>1 to say one or two things about that letter.</p> <p>2 MR. CASTOR: Do you want me to just</p> <p>3 pull it apart?</p> <p>4 DR. DALY: Would you, and give it</p> <p>5 to the court reporter so it could be entered</p> <p>6 into the record?</p> <p>7 DR. WEINIK: Dr. Mullan was at the</p> <p>8 physical examination and he also testifies</p> <p>9 that he was a model and he also testifies</p> <p>10 that he did not see that I, Dr. Weinik,</p> <p>11 displayed any preference for female models</p> <p>12 over male models.</p> <p>13 DR. DALY: Thank you. Anything</p> <p>14 else that you want to say as a witness for</p> <p>15 yourself, Dr. Weinik?</p> <p>16 MR. CASTOR: Well, I'm a little</p> <p>17 unclear on the procedure. He has evidence</p> <p>18 that he would present and then he has a</p> <p>19 closing statement which is argument.</p> <p>20 DR. DALY: Well, he was just</p> <p>21 describing himself, he wanted to be a witness</p> <p>22 in his own defense. So he can do that or we</p> <p>23 can then have it as a closing statement.</p> <p>24 It's his preference.</p>	<p style="text-align: right;">Page 221</p> <p>1 MR. CASTOR: If you let me ask the</p> <p>2 questions there won't be overlap.</p> <p>3 DR. DALY: Mr. Castor, I appreciate</p> <p>4 you're commenting. If you wouldn't do that</p> <p>5 anymore I would be very grateful.</p> <p>6 DR. WEINIK: I came to Temple as a</p> <p>7 resident in 1986 and I stayed at TUH, went to</p> <p>8 the mission to serve the needy, the</p> <p>9 impoverished and to take on the most</p> <p>10 challenging cases and, more importantly, to</p> <p>11 be a teacher and mentor. I trained</p> <p>12 approximately 300 residents, even more</p> <p>13 medical students in nearly 30 years without</p> <p>14 blemish until a change in my position for me</p> <p>15 and the responsibilities when the interim</p> <p>16 chair -- when I became interim chair with the</p> <p>17 very contested and difficult struggles to</p> <p>18 follow.</p> <p>19 To give you some background, in the</p> <p>20 year that Dr. Aversa was there the residents</p> <p>21 were very disappointed with Dr. Maitin's</p> <p>22 performance and in ignoring his -- their</p> <p>23 complaints and their concerns. Citations</p> <p>24 were also made for deficiencies at GME. And</p>

<p style="text-align: right;">Page 222</p> <p>1 with these increased complaints which went 2 through Dr. Coull, Dr. Weigers, to 3 Dr. Kaiser, Dr. Kaiser made the decision to 4 remove Dr. Maitin from the chair of the 5 department. He gave me the spot of interim 6 chair. 7 Dr. Maitin was the chair for 15 8 years and PD. Dr. Kaiser said to me your 9 residency is a mess as well, you have a right 10 to either fire Dr. Maitin, to remove him from 11 that position or the select someone else. We 12 had really no one else in our department. 13 Our department has only five people at that 14 time. 15 I gave him the opportunity with a 16 new program administrator to get those things 17 done. To say that things went smoothly 18 thereafter is a -- would be impossible. Dr. 19 Maitin was very aggressive with me, very 20 angry with me, including having stated in my 21 office, "How did you single-handedly sabotage 22 my career?" 23 I informed him that I did not do 24 that, that this was the decision of someone</p>	<p style="text-align: right;">Page 224</p> <p>1 of us together including myself, to make that 2 residency better and we achieved -- then we 3 had a formal review and there were some 4 citations we met and we met everything that 5 needed to be done after that. 6 So then came the time which -- now 7 Dr. Cruz and Dr. Maitin -- Dr. Cruz also made 8 assistant program director under Dr. Maitin. 9 Dr. Cruz is Filipino. If you know Filipino 10 culture, you don't go against someone who has 11 trained you and you don't go against your 12 supervisor. So while Dr. Cruz wanted to be 13 program chair he couldn't voice it to Dr. 14 Maitin and Dr. Maitin in no way was going to 15 let him be program chair. When he confided 16 in me that he wanted to do that, I pushed for 17 it and I pushed for it hard, and I was pushed 18 by Weigers as well as Coull. Coull initially 19 wanted me to do it and then -- said she 20 approved it and then she didn't, she wasn't 21 going to back it up. Weigers initially said, 22 you know, you got to work through this like, 23 you know, do this, and then later flat 24 dropped it. And they wanted me to make that</p>
<p style="text-align: right;">Page 223</p> <p>1 else. He continued to badmouth me to 2 residents, he continued to be resistant to 3 anything I wanted to try to do and including 4 something that he had promised and I knew he 5 promised Dr. Cruz, was that he decided he 6 would stay as chair and Dr. Cruz who has been 7 waiting for many years to be become program 8 director would then get his chance to become 9 program director. I knew of this, I approved 10 of that before he lost his program chair. 11 When he lost -- I'm sorry, before he lost his 12 chairmanship. 13 When he lost the chairmanship Dr. 14 Cruz was -- said to me, "What am I going to 15 do, am I going to stay, am I going to leave? 16 He's the program chair." 17 I said, "I will honor that promise 18 that made to you but we are going to give him 19 some time to get it together." 20 Dr. Maitin worked through with the 21 help of Amber and others in GME and got us 22 back up. There was a review. We met -- 23 internal review. There were numerous 24 deficiencies noted. We worked very hard, all</p>	<p style="text-align: right;">Page 225</p> <p>1 move and I wanted to make that move because I 2 was fearful that I would lose Dr. Cruz and 3 Dr. Cruz has been one of the top trainers in 4 our program. He's a very bright individual. 5 He's widely respected throughout the 6 hospital. He has an international presence 7 as well, and I thought he was very valuable 8 and I didn't want to lose him for the 9 training of our residents. To lose him would 10 be a great loss. Some would say that he's 11 the best educator in our program most years. 12 So unlike the previous years, I had 13 supervisory duties now and I had tried to 14 change things as well. And I tried to -- 15 pressure really came very strong in December 16 and January of last year because I was trying 17 to get Cruz in for this year, for this 18 July 1. In fact, what I had thought was I 19 tried to get him in, change him over in March 20 so that he would have time to transition and 21 Maitin could help him transition. 22 In order to keep a bright 23 individual in an academic institution you 24 have to promote them, you have to promote</p>

<p style="text-align: right;">Page 226</p> <p>1 them both academically, promote them 2 research-wise and groom and mentor your 3 fellow attendings so that they have goals 4 other than just to be a static doctor with a 5 position that has no end. He's too good a 6 doctor to want to stay that way. 7 And so I put a lot of pressure on 8 Dr. Maitin to move in, you know, in the 9 late -- well, in the winter of say November, 10 '17 through January, fully through January of 11 '18. And with that this adversarial 12 relationship was born. 13 I find it very curious. Let me -- 14 before I go to this. Unlike the previous 15 years now I had supervisory duties and out of 16 necessity I had to become a disciplinarian. 17 In my best lighthearted way, not being 18 trained to do this position but thrown in it, 19 not having the advantage of having the 20 professional development training, the 21 leadership training that I would have liked, 22 I, I was given opportunity, things that I had 23 to do to try to correct behaviors as Maitin 24 was not doing them.</p>	<p style="text-align: right;">Page 228</p> <p>1 things changed there. 2 People had axes to grind. I will 3 first address Dr. Acevedo's complaint. 4 Dr. Cowell had mentioned that Dr. Acevedo 5 indicated that I had in some fashion hurt his 6 chances to be -- to obtain a fellowship in 7 York, PA. He did not show up on my service 8 that day. The chief residents did not get a 9 call from him. He did not arrange backup. 10 It was his first day to be on service I 11 believe. And so when a resident doesn't show 12 up I want to know why they don't show up. I 13 want to know if they are sick, I want to know 14 if they are sad and I want to know if there 15 are other problems. 16 The reason I say that and the 17 reason I hold these residents so close and 18 the reason I get into these residents' heads 19 and ask sometimes, you know, more personal 20 questions is that during that time we had 21 three patients -- three residents with severe 22 depression. We had Ellen -- 23 MR. QUEENAN: Three residents is 24 fine.</p>
<p style="text-align: right;">Page 227</p> <p>1 There was a great deal of slackness 2 on how to be a professional as you have heard 3 today. And many residents, including Cora, 4 including Dua, dressed inappropriately 5 including Byas when she said she had a little 6 black dress. But what wasn't continued in 7 that conversation was that dress was 8 inappropriate. It's too short to be on when 9 you are a doctor in the hospital. We often 10 don't wear our coats all the time. We are a 11 very physical specialty. We examine 12 patients. Sometimes we climb up on the table 13 because if you're going to do manipulation on 14 them our tables are not ideal for doing 15 manipulation so we have to move people. So I 16 think it's inappropriate to wear a little 17 short black dress, and that's one of the 18 things that came up. 19 So I became a target because here I 20 am being a disciplinarian when I was a good 21 guy all the years before. I was the person 22 that the residents spoke to. Talking to my 23 residents I was a mentor to many of them and 24 now that role had changed somewhat. So</p>	<p style="text-align: right;">Page 229</p> <p>1 DR. WEINIK: Three residents is 2 fine. One was depressed when she first 3 entered and I tried to mentor her to keep her 4 to stay in and she really made the decision 5 that she didn't want to be a physician. 6 Another one had difficulties with 7 substance abuse, had difficulties with 8 depression, was not able to function as a 9 physician. We struggled. We sent them to 10 psychiatrists and other people. He called me 11 rather than Maitin. I talked to him in the 12 evenings. And eventually Dr. Maitin made the 13 decision that he was not going to be able to 14 be rehabilitated and that he was given many 15 chances and he was discharged from the 16 program. He subsequently committed suicide. 17 That left me very shocked and it left the 18 residents very shocked. 19 And then we had another patient 20 just this last year whose first name was 21 Philip and I can't remember his last name who 22 also had problems with depression, who also 23 had to take a leave and who also had 24 concerns.</p>

<p style="text-align: right;">Page 230</p> <p>1 And I will mention a fourth 2 resident, a female resident who in her senior 3 year had a significant friend, the 4 relationship of which we do not know whether 5 this was a friend or a lover but someone very 6 significant in her life died. She started 7 not showing up. She started not showing up 8 for weeks. No one knew where she was. We 9 were concerned about her. And we had to go 10 to GME to find the address because Dr. Maitin 11 didn't want us involved, to get involved to 12 call and find out where she was and he was 13 unset about that. 14 So to get back to Acevedo, Dr. 15 Acevedo didn't show up. You were given 16 testimony of a phone message, of a text that 17 said -- I asked him where he was. He texted 18 back "I'm in York for an interview." 19 I said that was not a smart idea. 20 Dr. Furman, the residency director, is an old 21 friend of mine. In fact, he was one of my 22 first residents. 23 Now, you took that, put it in the 24 note to mean that that was detrimental to him</p>	<p style="text-align: right;">Page 232</p> <p>1 likely have been offered a spot had two or 2 more people turned down our offers. As you 3 are aware, there are many factors that are in 4 play when we choose and rank fellows." 5 In fact, Dr. Acevedo did get a 6 fellowship, and there is a letter from the 7 fellowship director. 8 "To whom it may concern: This 9 letter is being sent in regards to a 10 recommendation provided to our interventional 11 spine and musculoskeletal program for our 12 next fellow, Phillip Acevedo, by Dr. Weinik. 13 Dr. Weinik's recommendation positively 14 influenced our decision to offer our 15 fellowship position to Dr. Acevedo. Nothing 16 inappropriate was discussed or otherwise 17 mentioned. Dr. Weinik exhibited the utmost 18 professionalism throughout." 19 Signed by Dr. Naftulin, his current 20 fellowship director. 21 DR. DALY: We can enter that as 22 well. 23 DR. WEINIK: Dr. Acevedo had me 24 completely wrong and he led others to believe</p>
<p style="text-align: right;">Page 231</p> <p>1 and I was threatening him and I used the 2 position of power to do so. Well, would you 3 be surprised if I presented a letter from 4 Dr. Furman that states, "This response is of 5 your correspondence in which you asked 6 whether you had positive or negative 7 influences on Dr. Acevedo's fellowship 8 application when he last -- when he applied 9 last year. 10 "To respond to your request, I 11 pulled his fellowship application file. The 12 letters of reference in his file were from 13 Dr. Maitin, Dr. Cruz and Dr. Schwartz, and as 14 you know, you never provided a letter of 15 recommendation for him. Likewise, you and I 16 never spoke about him during his application 17 process. We are fortunate that we have very 18 strong fellowship applicants. Dr. Acevedo 19 was on our final list of applicants. He was 20 ranked lower than our list of the ones who 21 were offered each of the six available 22 positions and accepted. He was able to 23 access our ranking -- I was able to access 24 our ranking list and Dr. Acevedo would most</p>	<p style="text-align: right;">Page 233</p> <p>1 that I was damning him when, in fact, I was 2 supporting him. I would have to hold that 3 his observations of other things are not as 4 accurate as well. 5 I was brought to this because 6 people have made attestations that I hurt 7 Dr. Furman. It would be simple -- I'm sorry, 8 I hurt Dr. Acevedo and damaged his reputation 9 or his ability to get a fellowship. Just the 10 opposite. He damaged mine by making false 11 claims. 12 It would have been very easy to ask 13 Dr. Acevedo where that program was and to 14 call Dr. Furman and see what the situation 15 was. That was not done. I believe there 16 hadn't been -- I haven't been given all the 17 due process to rectify these allegations that 18 Dr. Acevedo had made. 19 He also made other comments in his 20 interviews. He states that approximately 21 50 percent of the residents program are 22 osteopathic and they feel uncomfortable with 23 exams done by Dr. Weinik. But there was no 24 effort in the MSEC evaluation to find out</p>

<p style="text-align: right;">Page 234</p> <p>1 from the other osteopathic physicians if they 2 felt that way. Residents will say oh, here's 3 a young female patient scheduled, Dr. Weinik 4 will be wow. That's not the case that was 5 demonstrated today. 6 Amber Dzikowski. She testified 7 that Dr. Weinik used his position as a fear 8 tactic. He often tells residents they need a 9 letter from him. He is notorious for making 10 phone calls to either praise a resident or 11 say don't take that resident. 12 There was no effort made to 13 ascertain if those statements are correct. 14 Did anyone ask any other resident that I did 15 that? 16 I also say -- Amber states that I 17 am very friendly, overly friendly and he 18 feels that he wants to be everyone's buddy, 19 Amber feels. 20 Let me state that I don't want to 21 be everyone's buddy. In fact, the fact that 22 I wasn't everyone's buddy I got a lot of 23 pushback from certain people. I like to be 24 nice to everybody, I like to be kind to</p>	<p style="text-align: right;">Page 236</p> <p>1 DR. WEINIK: Let me go back to 2 another reason why I feel, an important 3 reason why I feel that people have cited me. 4 Dr. Dua, as you heard, is a close friend of 5 Dr. Maitin. In fact, I hear Dr. Dua went to 6 graduation this year when Dr. Maitin led it. 7 Yet there aren't many residents who come back 8 year after year. 9 I was pushing -- Dr. Dua had a 10 relationship with Dr. Maitin that was closer 11 than other residents have had. I was pushing 12 her mentor and her friend out of a position 13 which he was struggling and fighting to do 14 so. I believe that that may be the 15 motivation, that is the motivation why all of 16 a sudden four years after the event, four to 17 six years after the event that a letter 18 appears and I also feel the reason why she 19 doesn't want to defend it. 20 On July 7 we served Dr. Dua with a 21 letter requesting, requesting that she come 22 to this meeting. She acknowledged receipt of 23 it and has not come. 24 MR. CASTOR: Is it okay, Mr.</p>
<p style="text-align: right;">Page 235</p> <p>1 everybody and I do like to offer praise when 2 people do a good job. All of us here and for 3 a residency in somewhat shambles and 4 residency where people aren't happy I would 5 like for people to know they are doing a good 6 job. 7 During that period of time I said a 8 lot of times to Amber that she is doing a 9 good job in reconstructing the residency 10 program in her efforts there. And she asked 11 me, "I'm new at this job, how am I doing," 12 and I would tell her. 13 If I was so notorious for making 14 these bad phone calls, someone else, other 15 residents would know that, but there was no 16 effort to go and investigate that. 17 I will skip to something. 18 DR. DALY: I might just say again 19 given -- I want to give you just due here but 20 your comments are written and one of the 21 other possibilities -- 22 DR. WEINIK: They are not written. 23 DR. DALY: Sorry, I thought you 24 were reading.</p>	<p style="text-align: right;">Page 237</p> <p>1 Chairman, if we make that part of the record? 2 DR. WEINIK: Dr. Acevedo made 3 complaints because he thought I hurt him as 4 well. We'll go to Dr. Cowell. 5 I will expand upon the relationship 6 with Dr. Dua and Dr. Maitin. It's 7 significant because she's lying to help him 8 maintain his position. Dr. Maitin has been 9 very vocal to residents about my efforts to 10 remove him from that position. You know, 11 even -- you know, there are other residents 12 who I believe, being Dr. Kenback and Dr. 13 Acevedo and Dr. Hatt as well, who would be 14 willing to go and offer testimony for their 15 favorite attending if he's going to -- and 16 there was great concern about moving him out. 17 It was not a popular -- it was not popular 18 with certain residents. Dr. Kaiser told me 19 that your residents are upset that if you get 20 rid of Maitin you will -- you know, the other 21 ones will leave. So they were very vocal 22 about that. 23 But yet it was my prerogative to 24 assign a chair, a program chair. A program</p>

<p style="text-align: right;">Page 238</p> <p>1 chair serves at the privilege of the interim 2 chair. It was ability, it was my privilege 3 to do that. When these issues came up, all 4 of a sudden the tone changed. I wasn't going 5 to be able to remove him. Dr. Dua to this 6 day has a strong relationship with 7 Dr. Maitin. As well, she was afforded 8 privileges that other residents didn't have, 9 like being able to skip a rotation and come 10 hang out. This angered the other residents 11 as Dr. Averna described. And I didn't do the 12 things here that they have asked -- they are 13 accusing me of. 14 Interestingly, with Dr. Hatt, Dr. 15 Hatt was asked if she was every chosen to be 16 a model and she said yes and that she didn't 17 feel uncomfortable until someone pointed 18 certain things out. She didn't feel 19 uncomfortable and she's an osteopath. I 20 guess there was no effort to ask who the 21 resident was who pointed things out. 22 Dr. Hatt stated, "In my experience 23 Dr. Weinik does not follow through in giving 24 letters but everyone talks about getting a</p>	<p style="text-align: right;">Page 240</p> <p>1 Vince, you have some cross 2 examination. 3 DR. WEINIK: Yes, just a few belief 4 things. 5 --- 6 EXAMINATION 7 --- 8 BY DR. COWELL: 9 Q. Dr. Weinik, at one of the opportunities 10 we had to interview you we actually -- if we look 11 at in Section 11 Page -- I'm sorry, dated the 12 second to last page 2/20/18 the meeting we had 13 with you. And the minutes reflect that I asked 14 "And do you recall one incident?" 15 "And I am the one to teach hands-on 16 exams because I'm an osteopath and I take 17 seriously what I do. What I do is ask someone 18 from the audience to come up to exam who 19 demonstrated curves of the spine." 20 DR. WEINIK: Dr. Cowell, can you. 21 MR. WRIGHT: Second to last page on 22 Tab 11. 23 DR. WEINIK: Where are we on the 24 page?</p>
<p style="text-align: right;">Page 239</p> <p>1 letter from Dr. Weinik." 2 That's true, not everyone gets one 3 because not everyone deserves one. And 4 Dr. Acevedo, I was not giving Dr. Acevedo a 5 strong letter and so I chose not to give him 6 a letter. Because a letter goes into a file 7 that everyone sees. Every application would 8 see that letter and I didn't feel I wanted to 9 damage him by offering fake praise, so I 10 didn't offer him one. But I do offer letters 11 and strong letters for residents that I feel 12 are capable. 13 And I have to tell you, we have a 14 nearly 100 percent acceptance to the 15 specialty fellowship programs that our 16 residents want based on doing certain things. 17 If you really want to promote a resident you 18 make a call, you give a letter that's strong 19 and you follow-up with a phone call and you 20 mentor that person over the years. 21 I'm going to stop now because I'm 22 long winded, a boy from North Jersey, and I 23 will let the Panel ask their questions. 24 DR. DALY: Dr. Weinik, thank you.</p>	<p style="text-align: right;">Page 241</p> <p>1 MR. WRIGHT: Second bullet point. 2 BY DR. COWELL: 3 Q. I will start finishing that next to the 4 last sentence. "I do remember someone asking me 5 to demonstrate an exam. As I walked around and I 6 do remember someone jumping up and saying "That's 7 not the question mark," and another resident 8 saying, "He didn't even buy her a drink." 9 I can't recall the individual who 10 that happened to. 11 A. Correct. 12 Q. Is that -- was that your testimony at 13 the time? 14 A. That was my testimony at the time. 15 Q. Does that conflict with what some of the 16 references that some of the residents recalled 17 about that experience? 18 A. Well, I don't know what one you are 19 talking about. When you offered this I knew 20 nothing of what this is and I still don't know 21 this today if that's the case. 22 Q. But was that your statement or did I -- 23 do we have it inaccurate? 24 A. It's a statement on what event?</p>

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1 Q. On -- during the interview on 2/20,
2 whatever your impression was the event, did you
3 make this -- did you answer -- is this your
4 answer?
5 A. I testified truthfully to you but I
6 don't know which event you are referring to.
7 Q. So wasn't it your understanding that we
8 were there to discuss the letter that was
9 submitted by Dr. Dua?
10 A. Not then. You presented me with a
11 letter, a handwritten letter which I haven't seen
12 since.
13 Q. No. I presented you with the same
14 document that we have as evidence.
15 A. Dr. Cowell, you presented me with a
16 handwritten letter, you had it in the back pocket
17 of your scrubs and I read it. And then I never
18 saw that handwritten letter again.
19 Q. Okay. I will submit that I showed you
20 the exact document that we have as evidence today
21 and I will submit that we gave it to --
22 MR. CASTOR: Are you testifying a
23 second time now, Mr. Chairman?
24 DR. DALY: Thank you, Mr. Castor.

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1 I really appreciate it. We will let
2 Dr. Cowell finish and he will move forward,
3 please.
4 BY DR. WEINIK:
5 Q. And I will submitted, provided the same
6 letter at the hearing, at the hearing that we
7 brought you in to finalize the investigation and
8 gave it to you a second time. We never let you
9 take it out of our presence but you had access to
10 fully read and appreciate the document both the
11 first time that I presented when you came up to --
12 I happened to be working in the operating room and
13 you came up and you and I went into an office.
14 A. Yes, and you presented me with a
15 handwritten letter.
16 Q. Handwritten letter from who?
17 A. That's right, I don't know from who.
18 You presented to me a handwritten letter and when
19 you presented me -- when you came and spoke with
20 me with Dr. Tedaldi you presented me with a
21 printed letter and I said this is not the same
22 thing and it has more content than what I was
23 presented initially.
24 Q. Well, I won't dispute --

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1 A. And you said to me, "What about the
2 e-mails, what about the e-mails?"
3 And I said to you, "What e-mails?"
4 You showed me a letter.
5 Q. I won't dispute your recollection versus
6 mine. I will just say that I have no knowledge of
7 a handwritten letter. I don't have any
8 handwritten letter that I displayed.
9 DR. DALY: We can probably move
10 forward.
11 A. Dr. Cowell, do you recall me asking
12 "What e-mails?"
13 "What about the e-mails, do you
14 know of any other e-mails?"
15 I said, "What e-mails?"
16 You have never presented me with an
17 e-mail. You presented me with a letter.
18 Dr. Kaiser said to me, "What about e-mails?"
19 MR. CASTOR: Let them ask the
20 questions.
21 DR. WEINIK: Sorry.
22 DR. DALY: Dr. Cowell, anything
23 further?
24 DR. COWELL: No, nothing further.

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1 DR. DALY: Dr. Weinik, if I could,
2 if we went back to this issue with the coach,
3 the individual who was provided to you.
4 DR. WEINIK: Yes.
5 DR. DALY: There were a whole
6 series of canceled meetings.
7 THE WITNESS: Yes.
8 DR. DALY: Meetings which were
9 canceled by your secretary at least in the
10 document that we have access to. Can you
11 explain any of that? Because it seemed those
12 meetings were canceled repeatedly and over
13 many months. I don't want any personal
14 health information.
15 DR. WEINIK: Well, that's the
16 problem. Can I talk to you about that? Can
17 we go off the record for one moment?
18 DR. DALY: Well, you can do that on
19 the record. If you wish to you can.
20 DR. WEINIK: I will speak on the
21 record.
22 DR. DALY: Okay.
23 DR. WEINIK: I had a parathyroid
24 adenoma removed at one point in time and my

<p style="text-align: right;">Page 246</p> <p>1 PTH had crept back up. I was worried that</p> <p>2 it was coming back. I also had a high PSA</p> <p>3 and was -- with a high acceleration and I was</p> <p>4 worried about prostate cancer which is in my</p> <p>5 family. And I sought care and evaluation for</p> <p>6 those things. I, fortunately, did not have</p> <p>7 prostate cancer but I do have atypical cells.</p> <p>8 So if I missed something it had to do because</p> <p>9 I had other concerns that preceded that.</p> <p>10 Also, as well you know that in our</p> <p>11 hospital you have to give 60 days' notice</p> <p>12 before you bump any patients. I can't always</p> <p>13 give 60 days' notice. And Ms. Saccomandi</p> <p>14 would often say, "Well, let's do this date."</p> <p>15 And Jean would say, "Well, he can't do that</p> <p>16 date." In all due fairness, Dr. Saccomandi</p> <p>17 did cancel some on her own.</p> <p>18 And in her absence and in my</p> <p>19 absence from those meetings I made great</p> <p>20 progress. If you go to that page you will</p> <p>21 see --</p> <p>22 DR. DALY: I saw that. Thank you.</p> <p>23 I saw that. Thank you.</p> <p>24 DR. WEINIK: I was scheduled for</p>	<p style="text-align: right;">Page 248</p> <p>1 MR. QUEENAN: Probably not?</p> <p>2 DR. WEINIK: He would say what he</p> <p>3 needs to say.</p> <p>4 MR. QUEENAN: But your words were</p> <p>5 that he wouldn't go against the supervisor.</p> <p>6 DR. WEINIK: He wouldn't go against</p> <p>7 me.</p> <p>8 MR. QUEENAN: Did you not say that</p> <p>9 as his culture as a Filipino he would not go</p> <p>10 against his supervisor? That's what you</p> <p>11 said.</p> <p>12 DR. WEINIK: Well, let me modify</p> <p>13 that.</p> <p>14 MR. QUEENAN: Okay.</p> <p>15 DR. WEINIK: Dr. Maitin can be very</p> <p>16 stern and imposing. All the times I had to</p> <p>17 just as a regular attending ask -- you know,</p> <p>18 tell Dr. Maitin to back off Dr. Cruz. Dr.</p> <p>19 Cruz is diminutive and he is sensitive about</p> <p>20 that and if you challenge him he feels</p> <p>21 threatened.</p> <p>22 MR. QUEENAN: Can I see that</p> <p>23 fellowship letter?</p> <p>24 MR. CASTOR: The Furman one.</p>
<p style="text-align: right;">Page 247</p> <p>1 leadership and she had great hopes that I</p> <p>2 would go to a leadership.</p> <p>3 Now, Ellen Tedaldi wouldn't let me</p> <p>4 in the leadership program because -- I'm not</p> <p>5 sure why. Maybe she was challenged by that.</p> <p>6 She didn't want older attendings in the</p> <p>7 leadership program because I am an older</p> <p>8 attending I guess and that was for younger</p> <p>9 individuals.</p> <p>10 DR. COWELL: May I respond to that?</p> <p>11 DR. DALY: We don't need a</p> <p>12 response. I'm aware of the leadership</p> <p>13 program and who it's intended for.</p> <p>14 Any other questions that you have?</p> <p>15 MR. QUEENAN: So just you mentioned</p> <p>16 that Dr. Cruz is Filipino and they don't go</p> <p>17 against their supervisors. I assume that he</p> <p>18 would never say anything wrong about you</p> <p>19 either then when he was asked about the issue</p> <p>20 with the resident since that was your words,</p> <p>21 that Dr. Cruz is Filipino and wouldn't go</p> <p>22 against the supervisor.</p> <p>23 DR. WEINIK: He would probably do</p> <p>24 that.</p>	<p style="text-align: right;">Page 249</p> <p>1 MR. QUEENAN: The one he got</p> <p>2 accepted to.</p> <p>3 So when this says Dr. Weinik's</p> <p>4 recommendation it does not mean the letter,</p> <p>5 it just means your verbal recommendation?</p> <p>6 DR. WEINIK: I made a verbal</p> <p>7 recommendation.</p> <p>8 MR. QUEENAN: Because it said</p> <p>9 recommendation. You just didn't write him a</p> <p>10 letter.</p> <p>11 DR. WEINIK: No.</p> <p>12 MR. QUEENAN: But your</p> <p>13 recommendation -- so you did recommend him?</p> <p>14 DR. WEINIK: Yes.</p> <p>15 MR. QUEENAN: Okay. I'm just</p> <p>16 trying to clarify things. A lot of things</p> <p>17 don't fit in the little spots where they are</p> <p>18 supposed to fit up here.</p> <p>19 DR. WEINIK: I'm sorry. We are all</p> <p>20 tired, too.</p> <p>21 MR. QUEENAN: So what did this text</p> <p>22 message mean, "Not a wise move since I'm very</p> <p>23 good friends with Dr. Furman"?</p> <p>24 DR. WEINIK: Yes. So if you're</p>

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1 going to see them and I know them, why don't
 2 you give me the opportunity to call them?
 3 MR. QUEENAN: So you had no idea he
 4 was going to this program?
 5 DR. WEINIK: No.
 6 MR. QUEENAN: He just kind of went
 7 rogue?
 8 DR. WEINIK: Yes.
 9 MR. QUEENAN: All right. That
 10 makes some sense now.
 11 So you said that you sent that
 12 letter out to Dr. Dua and she acknowledged it
 13 but she never responded, no response at all
 14 came back?
 15 DR. WEINIK: She acknowledged she
 16 received it but has opted not to come.
 17 MR. QUEENAN: I think I needed
 18 clarification on that. Thanks.
 19 DR. DALY: Are we good?
 20 DR. LIN: I have no questions.
 21 DR. DALY: So I think we have
 22 concluded testimony, although we may have
 23 neglected to swear you in as part of this as
 24 a witness, so we can do that.

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1 DR. WEINIK: We do have a closing
 2 statement.
 3 MICHAEL WEINIK, D.O., swore the
 4 testimony he has given was the truth.
 5 DR. DALY: So now we have about ten
 6 minutes each for closing statement. What we
 7 might do, however, in the interest of biology
 8 is we can take a three minute bathroom break
 9 and then have your closing statements if we
 10 could do that. But literally three minutes.
 11 We can go off the record here for
 12 the next few minutes.
 13 (A brief recess was held at this
 14 time.)
 15 DR. DALY: We'll go back on the
 16 record now and we will have two closing
 17 comments, no more than ten minutes. Brevity
 18 would be great, if you could.
 19 Dr. Cowell, would you start?
 20 DR. WEINIK: Thank you. I
 21 respectfully suggest to this Panel that
 22 Temple University Hospital Medical Staff has
 23 provided sufficient facts and evidence that
 24 support the Medical Staff Executive

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1 Committee's decision to recommend to the
 2 Board of Trustees that Dr. Weinik's Medical
 3 Staff membership be terminated.
 4 Dr. Weinik has been a member of the
 5 Medical Staff for approximately 30 years. As
 6 a member of the Medical Staff he is bound by
 7 the Bylaws and is bound to abide by hospital
 8 policies. His conduct has proven to be time
 9 and time again in violation of the Physicians
 10 Professional Conduct Policy and contrary to
 11 what we stand for as a Medical Staff.
 12 You have heard that several female
 13 residents found his conduct do be
 14 inappropriate. Dr. Brown was subject to
 15 comments about her body and clothing and her
 16 personal relationships. She considered this
 17 to be stalking both in and outside of Temple
 18 Hospital. She felt violated.
 19 Dr. Byas, another female resident,
 20 described the black dress incident and
 21 Dr. Weinik's comment to her about the walk of
 22 shame.
 23 Amber Dzikowski from the GME office
 24 described her discomfort around Dr. Weinik

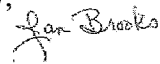
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1 because her stairs at her chest. She felt
 2 compelled to check her wardrobe whenever she
 3 was scheduled to meet with him. She also
 4 observed that he used his position as chair
 5 as a fear tactic.
 6 We have seen an example of this
 7 fear tactic in Michael Weinik's text message
 8 exchange with Dr. Acevedo. This is classic
 9 bullying behavior.
 10 Dr. Acevedo told us about Dr.
 11 Weinik's undraping a female patient's
 12 buttocks inappropriately so for an injection.
 13 He became so uncomfortable with the behavior
 14 that he left the exam room. He believes that
 15 many residents are uncomfortable with the
 16 exams that Dr. Weinik performs on female
 17 patients. His belief has been corroborated
 18 by another PM&R resident who had the same
 19 observation, Dr. Nicholas Kenback,
 20 Dr. Acevedo, Dr. Katie Hatt and Dr. Byas.
 21 Dr. Reed acknowledged friendship
 22 and colleagueship but confirmed that Dr.
 23 Weinik says things that he should not and
 24 many of his comments are not always

<p style="text-align: right;">Page 254</p> <p>1 appropriate.</p> <p>2 Dr. Brown made comments in 2016.</p> <p>3 Dr. Weinik was warned verbally. He had his</p> <p>4 unprofessional behavior continue and Dr.</p> <p>5 Brown issued a written complaint. Collegial</p> <p>6 intervention was initiated. Dr. Weinik it</p> <p>7 appears reflected in Allyson Saccomandi's</p> <p>8 letter that the professional coaching was not</p> <p>9 taken seriously and dragged out for months.</p> <p>10 Despite the collegial intervention Dr.</p> <p>11 Weinik's unprofessional behavior continued.</p> <p>12 Dr. Dua sent her e-mail about his</p> <p>13 treatment of her, an e-mail describing in</p> <p>14 great detail inappropriate behavior that</p> <p>15 included asking her if she was a good girl or</p> <p>16 a bad girl, telling her "You're definitely a</p> <p>17 bad girl, don't worry, we like bad girls at</p> <p>18 Temple," bending down on his knee to touch</p> <p>19 her knee in the hallway of the hospital,</p> <p>20 telling her she had flexibility and that he</p> <p>21 would like to find out about her flexibility</p> <p>22 himself, telling her that a female patient of</p> <p>23 his sees him because her husband does not</p> <p>24 give her enough loving and Dr. Weinik will</p>	<p style="text-align: right;">Page 256</p> <p>1 there for the black dress walk of shame</p> <p>2 incident, did they deny that Dr. Weinik</p> <p>3 inappropriately touched Dr. Dua's area? How</p> <p>4 do you square that with Dr. Weinik's only</p> <p>5 acknowledgment that such an incident took</p> <p>6 place? Do you find credibility in Dr.</p> <p>7 Weinik's friends or colleagues or is it many</p> <p>8 residents both male and female who have had</p> <p>9 to work under his authority for the past</p> <p>10 several years? I ask that you use your good</p> <p>11 judgment in making credibility decisions.</p> <p>12 The evidence has shown that nothing</p> <p>13 has changed. Dr. Weinik continues to be as</p> <p>14 people have come to know, "Weinik being</p> <p>15 Weinik." We as a Medical Staff cannot</p> <p>16 tolerate that behavior. Dr. Weinik's</p> <p>17 treatment of women, including residents,</p> <p>18 staff and patients does not represent the</p> <p>19 values of our Medical Staff that we work to</p> <p>20 uphold every day. We cannot afford to hear</p> <p>21 one more episode of this type of behavior.</p> <p>22 It severely impairs the ability of our</p> <p>23 residents to complete their residencies</p> <p>24 without intimidation or sexual harassment.</p>
<p style="text-align: right;">Page 255</p> <p>1 make her feel good; calling Dr. Dua to</p> <p>2 perform a physical exam demonstration during</p> <p>3 which he joked about having a tramp stamp and</p> <p>4 touch her parts which were unacceptable by</p> <p>5 her.</p> <p>6 Our receipt of the e-mail triggered</p> <p>7 our latest investigation. You will note that</p> <p>8 we interviewed Dr. Weinik about Dr. Dua's</p> <p>9 allegation that he touched her private areas.</p> <p>10 He acknowledge that such an incident occurred</p> <p>11 recalling that someone had jumped up saying</p> <p>12 "That's not my question mark" and he recalled</p> <p>13 that another person said that he, Dr. Weinik,</p> <p>14 didn't even buy her a drink.</p> <p>15 Dr. Weinik never denied that the</p> <p>16 incident occurred. He only failed to recall</p> <p>17 which resident was involved.</p> <p>18 Dr. Weinik may want to impugn</p> <p>19 credibility of those who came forward and</p> <p>20 that were interviewed. And we ask you to</p> <p>21 consider whether his witness had firsthand</p> <p>22 information about the specific information</p> <p>23 that has come up, were they in the hallway</p> <p>24 when the Gumby reference was made, were they</p>	<p style="text-align: right;">Page 257</p> <p>1 His longstanding pattern of conduct</p> <p>2 places the reputation and integrity of our</p> <p>3 institution in serious jeopardy. The time</p> <p>4 for verbal warning and collegial intervention</p> <p>5 has come and passed. They are no longer an</p> <p>6 option.</p> <p>7 I ask that you carefully review all</p> <p>8 the Medical Staff evidence before reaching</p> <p>9 your recommendation and I ask that you uphold</p> <p>10 the Medical Staff Executive Committee's</p> <p>11 recommendation to terminate Dr. Weinik's</p> <p>12 Medical Staff membership.</p> <p>13 Thank you.</p> <p>14 DR. DALY: Thank you, Dr. Cowell.</p> <p>15 Dr. Weinik, please.</p> <p>16 DR. WEINIK: I would like to offer</p> <p>17 my closing argument.</p> <p>18 After 30 years of teaching here at</p> <p>19 Temple while helping patients with their</p> <p>20 medical issues I never thought I would be</p> <p>21 standing here in a quasi legal proceeding</p> <p>22 defending myself against baseless allegations</p> <p>23 and misconduct. Until the last several</p> <p>24 months I knew nothing of legal proceedings,</p>

<p style="text-align: right;">Page 258</p> <p>1 witnesses, evidence, hearsay, direct and 2 cross examination and the like, nor did I 3 know the powerful and severe forces that 4 could be set in motion against me entirely on 5 the say so of people with a motive to want to 6 hurt or destroy me.</p> <p>7 Motive is another term I rarely 8 heard and certainly hardly ever used. Motive 9 is a term used in criminal cases to explain 10 why a criminal commits a crime.</p> <p>11 Unfortunately, I have come to learn that it 12 also applies to persons who would use the 13 administrative disciplinary process and 14 falsely accuse me, leaving me to ask the 15 motive question why.</p> <p>16 Until the reorganization of the 17 department I was a regular attending 18 physician who loved his work shaping young 19 doctors into healers and sending them into 20 the world. And when the residents voted me 21 best teacher four times, as recently as 2015, 22 it made me prouder than even the accolades I 23 received from my peers. Yes, I am proud my 24 peers think highly of me. But that my</p>	<p style="text-align: right;">Page 260</p> <p>1 notice? Of course, I certainly would have. 2 And did I, in fact, have anything to do with 3 him not getting the fellowship? No, I did 4 not. Dr. Furman attests in his letter to 5 that effect. In fact, I helped Dr. Acevedo 6 get his current fellowship as we know. Of 7 course, that only came to light after he 8 began accusing me of bad conduct to get to 9 get back at me.</p> <p>10 You heard firsthand accounts from 11 Dr. Acevedo's contemporaries in the residency 12 program. No one backed up his assertions 13 that I only used female models. No one 14 backed up his assertion that I spent more 15 time with young women patients than other 16 patients. Complete nonsense. In fact, you 17 heard from men who attested to themselves 18 serving as models for me. And yet Temple did 19 nothing to corroborate Acevedo's claims by 20 interviewing these residents.</p> <p>21 Dr. Acevedo supposedly told 22 investigators he witnessed me exposed a 23 female patient's buttocks unnecessarily. 24 Investigators said that Acevedo said that the</p>
<p style="text-align: right;">Page 259</p> <p>1 students, my protégés, if you will, believe I 2 have done well passing on my knowledge to 3 actually want -- to them warms my heart even 4 more.</p> <p>5 When I took over supervision of the 6 department it did not occur to me that I 7 would become a target of those whom I had to 8 correct, to those who resented me getting the 9 post and of course even those sort of people 10 have friends. Maybe I was naive. I thought 11 my easy-going nature and general way of 12 suggesting things to improve behavior would 13 make me a popular supervisor. I now know I 14 was a sucker.</p> <p>15 I understand now that Dr. Acevedo, 16 however wrongly, could think I sunk his 17 fellowship in York because I was friendly 18 with Dr. Furman. I was irritated that Dr. 19 Acevedo blew off my clinical obligations to 20 attend an interview in York without telling 21 anyone. Sure, I was. He was half of the 22 resident team scheduled to assist me that 23 day. That caused a problem.</p> <p>24 Would I have let him go with enough</p>	<p style="text-align: right;">Page 261</p> <p>1 patient's facial expressions told him she was 2 uncomfortable so Dr. Acevedo walked out the 3 door. But Dr. Williams was right there the 4 whole time assisting. He said everything was 5 by the book. Other witnesses backed him up. 6 But Temple urges you to trust their 7 investigations into what they say.</p> <p>8 Dr. Acevedo says he thought a 9 patient's facial expressions said over what 10 Dr. Williams and I told you about what 11 happened. Temple might have gotten the story 12 straight from Dr. Williams if the 13 investigator had not fallen asleep while Dr. 14 Williams was relating what happened. And of 15 course Temple made no effort to discover the 16 identity of the patient so we could ask her 17 and naturally Temple shut me out of the 18 system that would allow me to do the same.</p> <p>19 I should not have to be the one to 20 point out Dr. Acevedo's reasons to want to 21 harm me or the incredible, or the incredible 22 nature of his lies. Temple could and should 23 have uncovered these things itself but it 24 chose not to. Perhaps if it had followed its</p>

<p style="text-align: right;">Page 262</p> <p>1 own procedures for reviewing complaints we 2 would not be here today or if it had not 3 jumped to the conclusion I was such a menace 4 to the institution I had to be escorted off 5 the property and have all my access to 6 records, computer and e-mails cut off, the 7 very places where I might have been able to 8 reconstruct firsthand sources to fight off 9 this slanderous hearsay effort at 10 retribution.</p> <p>11 Briefly, I want to address Dr. 12 Brown and any other passing complaints about 13 my demeanor, again all hearsay. And in Dr. 14 Brown's case, her complaints had already been 15 addressed when the Acevedo and Dua issues 16 came up in January of this year. Curiously, 17 those last two complaints come in despite 18 Dua's being four to six years old in mid 19 January to early February this year, the 20 precise time I'm trying to exercise control 21 over the department much to the distress of 22 Drs. Maitin and Cruz.</p> <p>23 Witnesses have told you that Dr. 24 Brown was a less than stellar resident. And</p>	<p style="text-align: right;">Page 264</p> <p>1 witnesses I provided saying nothing memorable 2 happened. But what Temple also missed was 3 the rampant speculation that Dua and Maitin 4 enjoyed a special relationship and Maitin was 5 in danger of losing his job. You heard 6 witnesses say it was a well-known rumor. If 7 it was well-known as the residents from back 8 then testified, then how come Temple did not 9 check it out? So easy for Dua to accuse me 10 four to six years after the fact because her 11 friend Maitin in danger from me of losing his 12 job. Did she think it would go this far? 13 Probably not. Once she realized the hornet's 14 nest was stirred up she wanted nothing more 15 to do with it. She wanted to remain 16 anonymous, never gave an interview to 17 investigators while admitting by text she 18 received a letter from my lawyer to come here 19 tonight. She did not show. This is the kind 20 of reliable hearsay that your policy says 21 would be ordinarily something a reasonable 22 person would -- sorry, excuse me. Is this 23 the kind of reliable hearsay that your policy 24 says would be ordinarily something a</p>
<p style="text-align: right;">Page 263</p> <p>1 yes, I had to reprimand her about her 2 clothing being unprofessional. I'm trying to 3 teach young doctors how to interact with 4 patients. The reverse is also true, you 5 recall, when I had to educate the son of a 6 Board member not to flirt and ask out Dr. 7 Stephanie Li. So it went both ways. Did Dr. 8 Brown get her nose out of joint because she 9 wore -- because I said she wore something too 10 revealing? I imagine she did. But what 11 better way to get back at Weinik than to 12 point a finger at him.</p> <p>13 But as I mentioned, Temple had 14 closed that case until the happy coincident 15 of Dua and Acevedo came together, just as I 16 was pressing to reorganize the department. 17 Now that Dua's complaint is four to six years 18 old, I never saw her unredacted e-mail. 19 Temple reports do not reflect that 20 investigators ever interviewed her. My 21 lawyer asked her to come tonight to tell what 22 happened but she didn't appear. Temple did 23 nothing to corroborate what Dua claims in her 24 letter. Temple did not interview the</p>	<p style="text-align: right;">Page 265</p> <p>1 reasonable person would rely on upon making a 2 decision in his or her own affairs. I think 3 not. And yet Temple wants you to conclude 4 the Dua e-mail is reliable, though 5 uncorroborated hearsay, so powerful as to 6 dismiss me from my post.</p> <p>7 I am sure there are things that I 8 would want to say that I have forgotten and 9 that is why I have asked to submit a post 10 hearing written argument. But I ask you to 11 assess this evidence for what it is, rank 12 hearsay that is unreliable and not only 13 uncorroborated but intentionally so. Temple 14 could easily have run down firsthand sources 15 and simply did not do it either out of 16 negligence or out of desire to reach a 17 predetermined conclusion that it wanted my 18 head on a spike. In either event, these 19 allegations are not only not proven, they are 20 disproven using any fair measure of 21 credibility determination. I implore you to 22 recommend against any sanction and permit me 23 to resume my duties and my passion teaching 24 young MDs and DOs to be capable practicing</p>

<p style="text-align: right;">Page 266</p> <p>1 physicians making Temple proud in the world 2 of medicine. 3 Thank you. 4 DR. DALY: Thank you, Dr. Weinik. 5 Thank you, Dr. Cowell. 6 We'll end the formal meeting here 7 and we will go off the record at this 8 juncture. 9 MR. WRIGHT: We want to put on the 10 record our agreement that we are going to -- 11 or did we already? I have forgotten whether 12 we made our decision about ten days for us to 13 receive that. I don't know whether we put 14 that on the record. 15 DR. DALY: I don't know whether 16 that was on or off. It was a conversation 17 off the record, so we will stay on the record 18 then for agreement that there will be -- 19 Dr. Weinik mentioned he wanted to have a 20 written document submitted after this. 21 Dr. Cowell, do you want to do the 22 same? 23 DR. COWELL: Yes. 24 DR. DALY: You do. So there will</p>	<p style="text-align: right;">Page 268</p> <p>1 gone on. It's been a long evening. I 2 appreciate everyone's cooperation getting the 3 witnesses for both sides but particularly 4 yourself, Dr. Weinik, in getting those, the 5 court reporter for staying so late, and the 6 attorneys for not speaking up as much as they 7 would like to and the difficulty with a 8 procedure which is not like that you learned 9 in law school. 10 So thank you. We will go off the 11 record now and adjourn. Parental. 12 (The Medical Staff Hearing was 13 concluded at 11:00 p.m.) 14 ----- 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 267</p> <p>1 be two written documents that will come, post 2 hearing written closings, if you will. You 3 can also submit the -- we will have the 4 verbal testimony by the court reporter but 5 you can also submit to her and to us, if you 6 wish, your written closing discussion there, 7 the argument that you have, each of you. And 8 if there are other written documents that you 9 think would be important, particularly those 10 that are on the record that have been 11 submitted, I think that will be fine for us 12 to receive. 13 We have talked about the time line. 14 I haven't given you the time line of when we 15 meet because we haven't talked about 16 vacations and other things, but we will try 17 to be expeditious in this so that you are not 18 left hanging about a decision. So we will 19 try to move along. It will be approximately 20 three weeks before we receive all the written 21 information back. We will try to do 22 something within a couple of weeks after 23 that. 24 I thank everybody. The time has</p>	<p style="text-align: right;">Page 269</p> <p>1 C E R T I F I C A T E 2 3 I do hereby certify that I am a 4 Notary Public in good standing, that the 5 aforesaid testimony was taken before me, 6 pursuant to notice, at the time and place 7 indicated; that said deponent was by me duly 8 sworn to tell the truth, the whole truth, 9 and nothing but the truth; that the 10 testimony of said deponent was correctly 11 recorded in machine shorthand by me and 12 thereafter transcribed under my supervision 13 with computer-aided transcription; that the 14 deposition is a true and correct record of 15 the testimony given by the witness; and that 16 I am neither of counsel nor kin to any party 17 in said action, nor interested in the 18 outcome thereof. 19 20 WITNESS my hand and official seal 21 this 23rd of July, 2018 22  23 24 Notary Public</p>

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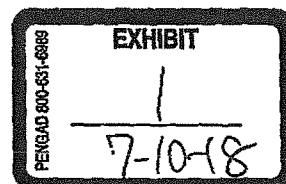
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Transcript Exhibits



Michael Weinik, D.O., Medical Staff Hearing

Tuesday July 10, 2018 5:30 P.M.
9th Floor Executive Conference Room
Boyer Pavilion
Temple University Hospital
3509 N. Broad Street, Philadelphia PA 19140

Temple University Hospital Medical Staff Evidence/Exhibits

1. Timeline of Events
2. Physician Professional Conduct Policy (TUH-ADMIN-950.1044);
3. Bylaws – Article VII;
4. Proof of Participation in Training for Dr. Weinik (including prevention of discrimination and harassment);
5. Background information from Sue Coull re: concerns brought to her attention;
6. Letter of PGY4 female PM&R Resident, Cora Brown, M.D., received by Susan Coull on March 2, 2017 re: Sexual Harassment;
7. April 5, 2017 Letter from Drs. Cowell and Tedaldi to Dr. Weinik re: complaint and coaching;
8. Memorandum from Allyson Saccomandi, Directory Learning and Organizational Development, re: Coaching Assignment for Michael Weinik, D.O.;
9. Text Message exchange between male PM&R Resident and Dr. Weinik, dated August 28, 2017, re: fellowship opportunity;
10. Email from former female PM&R Resident dated January 16, 2018 to Amber Dzikowski re: Sexual Harassment;
11. Investigation Report Summary for March 15, 2018 MSEC meeting; and
12. March 15, 2018 Letter from Dr. Cushing to Dr. Weinik advising him of the MSEC recommendation to terminate his Medical Staff membership.

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Timeline

Complaints/Interventions re: Michael Weinik, D.O.

6/3/14 – Dr. Weinik participates in Temple University training for, among other things, “Preventing Discrimination and Harassment for Employees.”

12/1/15 – Dr. Weinik becomes Interim Chair of the Department of Physical Medicine and Rehabilitation (PM&R).

11/3/16- Cora Brown, M.D. (female PM&R resident) makes verbal complaints to Sue Coull, TUH Designated Institutional Official (DIO), about Dr. Weinik’s behavior.

11/22/16 – Sue Coull and Susan Wieggers, M.D. meet with Dr. Brown to allow her to communicate her experiences with Dr. Weinik directly Dr. Wieggers.

12/1/16- Sue Coull and Dr. Wieggers meet with Dr. Weinik to notify and counsel him about an anonymous resident’s complaints.

2/28/17- Dr. Brown met with Sue Coull regarding a new complaint about Dr. Weinik. Dr. Brown was advised that she should put her concerns in writing so that they could be addressed through the Physician Professional Conduct policy.

3/2/17- Sue Coull received a written complaint from Dr. Brown. The written complaint was referred to Vincent Cowell, M.D., the Medical Staff President, for investigation under the Physician Professional Conduct policy.

3/3/17- Dr. Cowell and Ellen Tedaldi, M.D. (past Medical Staff President) begin an investigation of the complaints contained in the letter from Dr. Brown.

4/5/17 – Drs. Cowell and Tedaldi issue a letter to Dr. Weinik, following their investigation, advising him that they formally recommend professional coaching with progress reports to Larry Kaiser, M.D. (Medical School Dean to whom Dr. Weinik reports).

4/19/17 – Allyson Saccomandi, Director of Leadership and Organizational Development, begins the professional coaching sessions with Dr. Weinik and initiates a 360 review¹.

1/15/18 – Amber Dzikowski, GME Program Administrator, receives verbal notice from a male, senior PM&R resident, Nichols Kinback, M.D. that another male, senior PM&R resident, Philip Acevedo M.D., complained that Dr. Weinik’s behavior with a female patient made him (Dr. Acevedo) uncomfortable.

¹ The 360 review is a professional feedback opportunity that enables a group of coworkers to provide feedback on an employee's performance.

1/16/18 – Amber Dzikowski receives an email from a female, former PM&R resident, complaining about Dr. Weinik's behavior (*circa* 2012 through 2014, the resident's PGY2 and PGY3 years). The email satisfies the "Formal Complaint" requirement under the Physician Professional Conduct policy that triggers an investigation. The email is provided to Sue Coull. Sue Coull meets with Dr. Kinback.

1/17/18 – Sue Coull meets with Dr. Cowell and provides him with the 1/16/18 email. Sue Coull also meets with Dr. Acevedo.

Dr. Cowell asks Allyson Saccomandi to provide him with a status report regarding Dr. Weinik's coaching/360 review. Dr. Cowell asks Dr. Tedaldi to assist him with the investigation of the complaints made in the 1/16/18 email and the concerns expressed by the male PM&R residents (Drs. Acevedo and Kinback).

1/23/18 – Allyson Sccomandi issues her report regarding Dr. Weinik's coaching sessions and 360 review.

1/25/18 – Drs. Cowell and Tedaldi begin their investigation of the complaints made about Dr. Weinik in the 1/16/18 email and those made by Drs. Acevedo and Kinback. They also reviewed and considered the prior complaints and interventions taken with regard to Dr. Weinik.

1/26/18 – Dr. Cowell meets with Dr. Weinik to advise him of the complaint made against him and shows him the email sent by the complainant.

3/13/18 - Drs. Kaiser and Wieggers advise Dr. Weinik that he will no longer serve as interim Chair of the Department of Physical Medicine and Rehabilitation.

3/15/18 – Drs. Cowell and Tedaldi present the findings from their investigation to the Temple University Hospital Medical Staff Executive Committee (MSEC). The MSEC is advised of the issues that arose and the interventions taken with regard to Dr. Weinik's conduct, beginning with the verbal complaint by Dr. Brown (November, 2016) through the present. The 2018 investigation included interviews of the following individuals: Philip Acevedo, M.D.; Amber Dzikowski; Katie Hatt, M.D. (female PM&R Chief Resident); Rakhi Vyas, M.D. (female, senior PM&R resident); Reed Williams, M.D. (male Attending PM&R physician); and Michael Weinik, D.O.

The MSEC votes to recommend (to the TUH Board) that Dr. Weinik's Medical Staff Membership be terminated immediately.

Dr. Weinik is given verbal and written notice of the MSEC's recommendation by Herbert Cushing, M.D. – TUH Chief Medical Officer.

Dr. Weinik is placed on paid administrative leave.

4/6/18 – Dr. Weinik, through his counsel, requests a hearing pursuant to Article VIII of the Bylaws of the Professional Medical Staff of Temple University Hospital.

TEMPLE UNIVERSITY HOSPITAL ADMINISTRATIVE POLICIES AND PROCEDURES

Number:	TUH-ADMIN-950.1044
Title:	PHYSICIAN PROFESSIONAL CONDUCT
Effective Date:	12/2002
Last Reviewed:	04/12/2013
Last Revised:	12/12/2016
References:	TUHS-950.559-Policy Against Workplace Harassment and Violence TUH-ADM-950.1035-Physician Health and Wellness Policy
Attachments:	None

POLICY

Temple University Hospital is committed to providing and fostering a culture of safety. A culture of safety requires collegial, cooperative and respectful interactions between physicians and all others at the hospital. This policy addresses physician and allied health professionals' behaviors that undermine a culture of safety.

SCOPE AND RESPONSIBILITIES

All physicians and allied health professionals (AHPs) are expected to refrain from behaviors toward patients, employees, visitors and other practitioners that undermine a culture of safety. This policy applies to any physician or AHP conduct that occurs on hospital campuses, including, but not limited to offices and clinics within the hospital, common areas, and parking facilities. The Medical Staff President, in coordination with the respective Department Chairs and, as needed, the Medical Staff Officers and/or Medical Staff Executive Committee (MSEC) shall enforce this policy in a firm, fair and equitable manner. Such enforcement will be undertaken without assumptions or bias.

DEFINITIONS

Disruptive Conduct - Disruptive conduct is defined as behavior that threatens patient safety because it inhibits collegiality and cooperation essential to teamwork, impairs communication, undermines morale, and inhibits compliance with existing practices/policies as well as implementation of new practices/policies. Disruptive conduct may be overt or passive (i.e. refusal to act or respond) and includes, but is not limited to:

1. Verbal or physical abuse of colleagues, residents, students, hospital personnel or patients, which includes throwing objects, threatening violence and/or aggressive physical contact with others.
2. Sexual harassment, which includes jokes with sexual content and comments with sexual innuendo.
3. Inappropriate language or comments, which includes racial, ethnic, gender, sexual orientation or socioeconomic slurs, profanities or obscenities, sarcastic, cynical or demeaning remarks, and statements that show a blatant disdain for another person.

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4. Threatening or intimidating behavior exhibited during interactions with colleagues, residents, students, hospital personnel or patients, which includes finger pointing, invading another's personal space and yelling or screaming.
5. Inappropriate responses to patient needs or staff requests, which include late replies to pages, knowingly disregarding hospital policies and impertinent or inappropriate comments (or illustrations) made in patient medical records or other official documents, impugning the quality of care in the hospital.
6. Retaliation against persons who report disruptive behavior.

Formal Complaint - A Formal Complaint is defined as a writing that describes perceived Disruptive Conduct. The Formal Complaint will include:

- The date and time of the perceived Disruptive Conduct
- A description of the perceived Disruptive Conduct that is, to the extent possible, limited to factual, objective, and observed acts or omissions
- The circumstances which precipitated the perceived Disruptive Conduct
- The name of any patient involved in, or affected by, the perceived Disruptive Conduct
- The consequences, if any, of the perceived Disruptive Conduct as it relates to patient care and/or hospital operations
- A description of any action already taken to remedy the situation including date, time, place, action, and name(s) of those intervening, and
- The identities, if possible, of others who may be able to corroborate the perceived Disruptive Conduct.

Just Culture -- A process that promotes a culture of full disclosure of mistakes, errors, near misses, patient safety concerns, and sentinel events in order to facilitate learning from such occurrences and identifying opportunities for process and system improvement. It is also a culture of accountability in which individuals will be held responsible for their actions within the context of the system in which they occurred; such accountability may involve system improvement or individual counseling, coaching, education, counseling, or corrective action. It is a culture that balances the need to learn from mistakes with the need to take corrective action against an individual if the individual's conduct warrants such action.

PROCEDURES

Reporting and Receipt

1. Anyone, including a medical staff member, resident, student, employee or agent of the hospital or a patient or their family member/friend may submit a Formal Complaint about a physician or allied health professional (AHP) regarding perceived Disruptive Conduct.
2. Formal Complaints will be submitted to the Medical Staff President. If complaints are initially submitted to a Department Chair, the Chief Executive Officer (CEO), Chief Medical Officer (CMO) or other hospital administrator, the recipient will forward the Formal Complaint to the Medical Staff President.
3. Upon receipt of a Formal Complaint, the Medical Staff President shall review the Formal Complaint to determine whether it meets the requirements of this policy.
 - If the Formal Complaint does not meet the requirements, the Medical Staff President shall request the author(s) of the Formal Complaint to provide additional information. If the author(s) cannot provide required information, they will be advised that the process cannot go forward and the matter will be closed.

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- If requirements have been met, the Medical Staff President shall notify the CMO and the Department Chair/Section Chief of the complaint and the involved physician/AHP and shall offer the Department Chair/Section Chief the opportunity to evaluate the allegations in the Formal Complaint. The Department Chair/Section Chief may elect to conduct the evaluation or have the Medical Staff President (or their designee from the elected Medical Staff) conduct the evaluation.
- 4. Prior to commencement of an evaluation of the allegations, the Department Chair/Section Chief shall notify the involved physician/AHP about the Formal Complaint in person or by telephone/e-mail. The involved physician shall be advised that that he/she may go to the Medical Staff Office to review a copy of the Formal Complaint but may not make a copy of that document and that he/she may select an advocate for support.

Evaluation

5. The person evaluating the allegations contained in the Formal Complaint (i.e. Department Chair or Medical Staff President or designee):
 - (1) May interview the author(s) of the Formal Complaint;
 - (2) Shall interview the involved physician;
 - (3) Shall review documentation, if any, maintained by the Medical Staff Office for the involved physician regarding any previous Formal Complaint(s) that have been addressed pursuant to this policy (or an earlier version of this policy);
 - (4) May interview other individuals involved in or knowledgeable about the incident; and
 - (5) May review medical records, incident reports, surveillance video, etc.

Disposition

6. After the evaluation is complete the Department Chair/Section Chief and the Medical Staff President may share the results of the evaluation with the others to determine a disposition as follows:
 - (1) The behavior does not meet the definition of Disruptive Conduct such that the matter shall be dismissed and closed; or
 - (2) The behavior meets the definition of Disruptive Conduct and warrants a Collegial Intervention pursuant to Article 7.2.2 of the Medical Staff Bylaws; or
 - (3) The behavior meets the definition of Disruptive Conduct and warrants submission to the MSEC for possible Corrective Action pursuant to Article 7.3 of the Medical Staff Bylaws either due to the severity of the behavior or because the physician has had another Formal Complaint asserted against her/him within the last five (5) years, or
 - (4) The behavior suggests impairment (medical, psychological, or substance abuse problem) that warrants referral to the Physician's Health & Wellness Committee.

If the Department Chair/Section Chief and the Medical Staff President cannot agree on a disposition, the Medical Staff President shall have the sole discretion to decide the disposition. The CMO and Medical Staff Executive Committee shall be advised of the disposition.

7. Dismissal of the Complaint

- The Medical Staff President shall verbally notify the involved physician and the physician's Department Chair/Section Chief and the author(s) of the Formal Complaint

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that, after evaluation, the conduct was not deemed to be Disruptive Behavior and shall document when such notifications were made.

8. Collegial Interventions

- The Medical Staff President shall prepare a written report regarding the findings of the evaluation (including systems issues, "triggering events", etc.) and the basis for the Collegial Intervention.
- The Medical Staff President, in consultation with the physician's Department Chair/Section Chief, shall establish the terms of the Collegial Intervention.
- The physician's Department Chair/Section Chief shall notify the physician about the Collegial Intervention.
- The involved physician may be asked to sign a written agreement, deemed a behavioral contract, which includes specific requirements that the physician must fulfill to avoid a recurrence of Disruptive Behavior.
- The physician shall have the right to present a written response to their Department Chair and the Medical Staff President regarding the Collegial Intervention.
- A copy of the Medical Staff President's report (including the terms of the Collegial Intervention, the behavioral contract, if any, and the physician's written response, if any) shall be submitted to the physician's Department Chair and to the Medical Staff Office.
- The physician's Department Chair and the Medical Staff Office shall remove these documents from the physician's confidential file and destroy them after five (5) years if no new Formal Complaints have been filed since the initiation of this Collegial Intervention.
- The Medical Staff President shall verbally notify the author(s) of the Formal Complaint that the matter has been handled as a Collegial Intervention, without making reference to any of the underlying facts or findings and shall document when such notification(s) were made.

9. Corrective Actions

- The Medical Staff President shall prepare a written report regarding the findings of the evaluation (including systems issues, "triggering events", prior Formal Complaints, if any, etc.) and submit the report to the Medical Staff Executive Committee for potential Corrective Action pursuant to 7.3 of the Medical Staff Bylaws. A copy of the report shall also be submitted to the physician's Department Chair and the Temple University School of Medicine – Office of Faculty Affairs.
- The MSEC shall, in Executive Session, handle the matter in accordance with Article 7.3 of the Bylaws or may elect to have the matter handled pursuant to Article 7.2 of the Bylaws (i.e., as a Collegial Intervention) at its discretion.
- Any reports prepared in accordance with Article 7.3 of the Bylaws shall remain in the physician's confidential credentials file permanently.
- The Medical Staff President shall verbally notify the author(s) of the Formal Complaint that the matter has been handled as a Corrective Action, without making reference to any of the underlying facts or findings and shall document when such notification(s) were made.

10. Referral to Physician's Health Committee

- Matters deemed to warrant referral to the Physician's Health Committee shall be handled in accordance with the TUH Physician Health and Wellness Policy – TUH-ADMIN-950.1035

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- The Medical Staff President shall document that such referral was made. Such documentation shall not make reference to any underlying facts or findings.
- The Medical Staff President shall verbally notify the author(s) of the Formal Complaint that the matter has been handled appropriately but that no further information may be provided.

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APPROVALS

Recommended by:

Sherry Mazer
Chief Regulatory Affairs Officer – TUH, TUHS

12/12/2016

Approved by:

Robert McNamara, MD
Chair, Medical Staff Executive Committee – TUH

Elizabeth Craig, DNP, CRNP, FACHE
Vice President Patient Care Services & Chief Nursing Officer – TUH

Herbert E. Cushing, MD, FACP
Chief Medical Officer, TUH

Verdi J. DiSesa, M.D., MBA
President and Chief Executive Officer - TUH

Date:

12/15/2016

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ARTICLE VII: INTERVENTIONAL PEER REVIEW, CORRECTIVE ACTION, AND AUTOMATIC LIMITATIONS

7.1 OVERVIEW

These Bylaws encourage informal, collegial, and educational efforts by Professional Medical Staff leaders including Department/Section Chairs/Chiefs, and/or the Medical Staff President to identify and address questions relating to clinical practice and professional conduct, using a systems-based analysis and Just Culture principles, as defined in the Definitions, and reserving formal corrective action procedures for those infrequent situations in which collegial efforts have not succeeded and/or where material patient safety concerns have arisen. The provisions of this section are applied in concert with specific Hospital/Medical Staff policies regarding: (1) peer review; (2) disruptive conduct (including sexual harassment); (3) physician health/impairment; and (4) late career practitioner matters involving these issues. Matters involving these issues should be referred to the relevant committees as specified in those policies.

7.2 INTERVENTIONAL PEER REVIEW

7.2.1 Initiation of a Concern. Members of the Professional Medical Staff have the responsibility to report to the relevant Department Chairs, the Medical Staff President, or the CMO, any Practitioner whose activities or professional conduct are reasonably likely to be: (1) detrimental to patient safety or the delivery of quality patient care, including matters related to physician health; (2) disruptive to Hospital operations; (3) contrary to these Bylaws; or (4) below applicable professional standards.

7.2.2 Collegial Intervention. The relevant Department Chair, working in collaboration with other Medical Staff Leaders, and Hospital Administration, as appropriate, will address concerns raised under Bylaws section 7.2.1 through collegial intervention. The goal of collegial interventional peer review efforts is to arrive at voluntary, responsive actions by the Practitioner to resolve questions that have been raised. Collegial interventional efforts are encouraged, but are not mandatory. All collegial interventional efforts by Professional Medical Staff leaders and Hospital Administration constitute peer review activities. Collegial intervention does not preclude the reporting to appropriate licensing boards, the Department of Health or other governmental entity as required by law.

7.3 CORRECTIVE ACTION

7.3.1 Initiation of Formal Corrective Action Proceedings. Whenever a material patient safety concern has been raised, or where collegial interventional efforts have not resolved a question, regarding (1) a

Practitioner's clinical competence, clinical practice, or interactions with graduate medical trainees, students or other persons in the Hospital; (2) known or suspected violation of applicable ethical standards, these Bylaws, or Professional Medical Staff or Hospital Policies; or (3) conduct of a Practitioner that is considered below Professional Medical Staff or Hospital standards or disruptive to the orderly operations of the Hospital, the matter will be referred to the President of the Medical Staff and the Chief Medical Officer, who shall review the matter, and if appropriate, forward it to the MSEC. The MSEC may determine there is no basis for an investigation, or may initiate formal corrective action proceedings by opening an investigation. If the MSEC determines that an investigation is appropriate, it will advise the Practitioner unless, under extraordinary circumstances, it determines that informing the person might compromise the investigation or disrupt the operations of the Hospital or the Professional Medical Staff. The Chair of the MSEC will keep the CEO of the Hospital fully informed of the question raised and of any actions taken in connection therewith.

- 7.3.2 Investigation. The MSEC shall appoint a three (3)-physician ad hoc committee to investigate the matter. If requested, the Practitioner under investigation will provide information to the ad hoc investigating committee in a manner and upon such terms as the ad hoc investigating committee deems appropriate. The ad hoc investigating committee may, but is not obligated to, review medical files or other documents, obtain an external consultant to conduct a comprehensive chart audit, and conduct interviews with witnesses. Such investigation will not constitute a "hearing" (as that term is used in Article VIII), nor will the procedural rules with respect to hearings or appeals apply. The ad hoc investigating committee may, in its sole discretion, grant the Practitioner under investigation an interview at which the Practitioner being investigated may discuss the matters under investigation, or may require the Practitioner to appear and to discuss the matters. A record of such interview will be made by the ad hoc investigating committee and forwarded to the MSEC with its report. If the Practitioner refuses to participate in such an interview, the involved parties may not draw an adverse presumption from the refusal, and the Practitioner waives the right to subsequently argue that the ad hoc committee failed to take into account any information that he/she could have provided during the interview.

The ad hoc investigating committee should seek to complete the investigation within sixty (60) days, but no longer than ninety (90) days, of its receipt of a request to investigate and, within fourteen (14) days thereafter, forward a written report of the investigation to

the MSEC. The report may, at the ad hoc committee's option, include recommendations for appropriate corrective action. The ad hoc committee may also elect to defer the discussion of recommendations to the full MSEC.

Despite the status of any investigation, at all times the MSEC, in consultation with the CEO of the Hospital, will retain authority and discretion to take whatever action may be warranted by the circumstances, including summary suspension, termination of the investigative process, or other action, as otherwise set forth in these Bylaws.

7.3.3 Action. The MSEC will take action upon the results of the investigation at its meeting following receipt of the report of the ad hoc committee. Such action may include, without limitation:

- (a) Rejecting the possibility of corrective action and, if the MSEC determines there was not credible evidence for the complaint in the first instance, removing any adverse information from the Practitioner's file;
- (b) Referring the matter back to the ad hoc committee with specific directions for further investigation;
- (c) Issuing a letter of admonition, reprimand, or warning to be included in the credentials file of the Practitioner. In the event such a letter is issued, the Practitioner may make a written response that will be placed in the Practitioner's credentials file; a letter of admonition, reprimand, or warning will not entitle the Practitioner to the hearing and appellate review procedures of Article VIII of these Bylaws. Such letter will be removed from the Practitioners' credentials file after five (5) years if no further corrective action is taken against the Practitioner during this time;
- (d) Recommending a remedial action plan to be designed in consultation with the Department Chair and subject to the oversight of the Department Chair and MSEC, with specific outcome measures and a compliance monitoring plan;
- (e) Recommending reduction, modification, suspension, or termination of Clinical Privileges, or Specified AHP Privileges, as applicable;
- (f) Recommending reductions of Professional Medical Staff membership status or limitation of any prerogatives related to the Practitioner's delivery of patient care;

- (g) Recommending suspension, termination, or probation of Professional Medical Staff membership; or
- (h) Taking other actions deemed appropriate under the circumstances.

7.3.4 Notice to Practitioner. The Practitioner will receive Special Notice of any recommendation or action taken by the MSEC, including a decision that no corrective action is necessary. If the MSEC recommends a form of corrective action that results in hearing rights as set forth in section 8.2 of these Bylaws, the Special Notice shall inform the Practitioner that he/she has a right to invoke the hearing procedures in Article VIII, and shall include the information specified in Bylaws section 8.3.1. As stated in the Special Notice, the affected Practitioner waives his/her right to a hearing by failing to request a hearing within thirty (30) days of receiving Special Notice of the MSEC's recommendation. If the Practitioner does not request a hearing, the matter will be transmitted to the Board for final review and action, of which the Practitioner will receive Special Notice.

7.3.5 Joint Conference Committee Review. If at any point during the corrective action review proceedings, the Board reaches a determination that is different from that recommended by the MSEC, then, prior to final action by the Board, a Joint Conference Committee shall be convened to review the matter and make recommendations that the Board shall consider before taking final action.

7.4 SUMMARY SUSPENSION OR RESTRICTION

7.4.1 Grounds. Summary suspension or restriction of a Practitioner may be imposed if a Practitioner: (1) disregards and/or violates these Bylaws, Medical Staff Policies or Hospital Policies in a manner that endangers the health, life or well-being of any patient, prospective patient, or other person in the Hospital, (2) engages in conduct, or it is reasonably believed that the Practitioner may engage in conduct, that requires prompt action be taken to protect the health, life or well-being of any patient, prospective patient, or other person in the Hospital, (3) engages in conduct that materially disrupts any aspect of the Hospital's operations, so as to create a material safety risk, or (4) exhibits signs of impairment, including but not limited to alcohol or drug use, while providing, or available to provide, patient care services at the Hospital.

7.4.2 Authority. The CEO of the Hospital, or his/her designee, in consultation with the Chair of MSEC and/or the President of the

Professional Medical Staff, has the authority to impose summary suspension or restriction, which may involve the Practitioner's Professional Medical Staff membership or all or any portion of the Practitioner's Clinical Privileges or Specified AHP Privileges, as applicable. Unless otherwise stated, such summary suspension or restriction will become effective immediately upon imposition and the CEO of the Hospital will give Special Notice of the suspension promptly to the Practitioner, applicable Department Chair(s), and the MSEC. The summary suspension or restriction may be limited in duration and will remain in effect for the period stated or, if not so limited, will remain in effect until resolved by the procedures specified in this Bylaws section 7.4.

7.4.3 Review. Within five (5) business days of such summary suspension or restriction, the MSEC will convene to review and consider the action; provided, however, that the MSEC may extend the period of review for good cause. In no case, however, may the extension exceed a period of fourteen (14) days. Upon request of the MSEC by the Practitioner, the Practitioner may attend and make a statement concerning the issues under investigation, on such terms and conditions as the MSEC may impose, although in no event will any meeting of the MSEC, with or without the Practitioner, constitute a "hearing" within the meaning of Article VIII, nor will any procedural rules apply except those adopted by the MSEC. The MSEC may recommend that the summary suspension be terminated, modified, continued for a specified period, or made permanent.

7.4.4 Special Notice/Hearing Rights. The CEO or his designee will furnish the Practitioner with Special Notice of the MSEC's recommendation, with copies to the MSEC Chair and applicable Department Chair(s). If the MSEC recommends that the summary suspension be modified, continued for a specified period, or made permanent, the Special Notice will inform the Practitioner that he/she has a right to invoke the hearing procedures in Article VIII, and shall include the information specified in Bylaws section 8.3.1. In the event that the Article VIII procedures are requested, the summary suspension shall remain in effect throughout the pendency of the hearing and appeal process. As stated in the Special Notice, the affected Practitioner waives his/her right to a hearing by failing to request a hearing within thirty (30) days of receiving Special Notice of the MSEC's recommendation. If the Practitioner does not request a hearing, the matter will be transmitted to the Board for final review and action, of which the Practitioner will receive Special Notice.

7.4.5 Recommendation for Termination of Summary Suspension. If the MSEC recommends termination of the summary suspension, that recommendation will be transmitted immediately to the Board for review and final action. If the Board determines that the summary suspension should remain in place, in whole or in part, the CEO will inform the Practitioner, by Special Notice, that he/she has a right to invoke the hearing procedures in Article VIII, and shall include the information specified in Bylaws section 8.3.1. In the event that the Article VIII procedures are requested, the summary suspension shall remain in effect throughout the pendency of the hearing and appeal process. The affected Practitioner waives his/her right to a hearing by failing to request a hearing within thirty (30) days of receiving Special Notice of the MSEC's recommendation, and the Board decision will become final, subject to the provisions of section 7.4.6, below.

7.4.6 Joint Conference Committee Review. If at any point during the summary suspension review proceedings, the Board reaches a determination that is different from that recommended by the MSEC, then, prior to final action by the Board, a Joint Conference Committee shall be convened to review the matter and make recommendations that the Board shall consider before issuing its final action.

7.5 AUTOMATIC LIMITATIONS

7.5.1 Automatic Limitation: Faculty Status. The Professional Medical Staff membership and privileges of a Member in the category of Active Staff who is no longer a faculty member at the Temple University School of Medicine, School of Podiatric Medicine, or School of Dentistry will automatically be re-assigned to the Associate Staff category as of the date of such cessation, unless the Member's contract or separation agreement does not allow for that.

7.5.2 Staff providing services pursuant to a contract (all categories). In the event that a Practitioner is providing services directly or indirectly at the hospital pursuant to a contract and such contractual relationship terminates; or the Staff member's relationship with his/her employer (which is contracting with the hospital) terminates, then the Practitioner's membership and Clinical Privileges, or Specified AHP Privileges, as applicable, shall be governed by the terms of the contractual relationship.

7.5.3 Grounds. In the instances discussed below, the Practitioner's membership and Clinical Privileges, or Specified AHP Privileges as applicable, will be terminated, suspended or limited as set forth

below. It is the obligation of each Practitioner to advise the CEO of the Hospital immediately upon learning of an event that could lead to the termination, suspension or limitation of his/her Professional Medical Staff membership, Clinical Privileges, or Specified AHP Privileges, as set forth below. Promptly upon learning of such an event, the CEO of the Hospital will advise the Chair of the MSEC, who will in turn promptly advise the MSEC.

- (a) Termination, Revocation, Suspension, Restriction or Limitation of License or Other Legal Credential. If a Practitioner's license or other legal credential authorizing practice in the Commonwealth of Pennsylvania is: (1) terminated or revoked; or (2) surrendered while under investigation or in return for not conducting an investigation, the Practitioner's Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges as applicable, automatically will be terminated as of the date such action becomes effective. In the event Professional Medical Staff membership and Clinical Privileges terminate on such basis, the procedures set forth in Article VIII will not apply.

If a Practitioner's license or other legal credential authorizing practice in the Commonwealth of Pennsylvania is: (1) suspended; (2) limited or restricted by a licensing or certifying authority, or (3) subject to a period of probation, the Practitioner's Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges as applicable, automatically will be suspended as of the date such action becomes effective.

If a Practitioner's license or other legal credential authorizing practice in a state other than one in which the Hospital has a facility is (1) terminated, revoked or suspended; or (2) surrendered while under investigation or in return for not conducting an investigation, the Medical Staff Member's Professional Medical Staff membership and Clinical Privileges automatically will be suspended as of the date such action becomes effective.

- (b) Termination, Revocation, Suspension, Restriction or Limitation on DEA Certificate. If a Practitioner's DEA certificate is terminated, revoked, or surrendered, the Practitioner's Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges, as applicable, automatically will be terminated as of the date such action becomes effective. In the event Professional

Medical Staff membership and Clinical Privileges, or Specified AHP Privileges, as applicable, terminate on such basis, the procedures set forth in Article VIII will not apply.

If a Practitioner's DEA certificate is suspended, limited or subject to a period of probation, the Practitioner's Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges, as applicable, automatically will be suspended as of the date such action becomes effective. This provision does not pertain to a Practitioner whose practice does not require a DEA Certificate and who has elected not to maintain one.

- (c) Professional Liability Insurance. If a Practitioner fails to maintain professional liability insurance in amounts and of a type required, the Practitioner's Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges as applicable, automatically will be suspended as of the date that the Practitioner first failed to maintain the required professional liability insurance. If, within thirty (30) days thereafter, the Practitioner does not provide evidence of required professional liability insurance, the Practitioner's Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges as applicable, automatically will be terminated. In the event Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges as applicable, are suspended or terminate on such basis, the procedures set forth in Article VIII will not apply.
- (d) Exclusion or Suspension from Government Program. If a Practitioner is excluded or suspended from Medicare, Medicaid or participation in another state or federal government health care program, the Practitioner's Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges as applicable, automatically will be terminated as of the date such action becomes effective. In the event Professional Medical Staff membership and Clinical Privileges, or Specified AHP Privileges as applicable, terminate on such basis, the procedures set forth in Article VIII will not apply.
- (e) Medical Records. Members of the Professional Medical Staff are required to complete medical records according to the time periods set forth in these Professional Medical Staff Bylaws, Medical Staff Policies and Hospital Policies. A temporary suspension in the form of withdrawal of Clinical

Privileges until medical records are completed or the suspension is lifted will be imposed by the Chair of the MSEC or CEO of the Hospital, after Special Notice of delinquency for failure to complete medical records within such period. The suspension will be lifted upon completion of the delinquent records, or for good cause shown, by the person who imposed the suspension. In the event that Clinical Privileges are suspended on such basis, the procedures of Article VIII will not apply.

7.5.4 MSEC Review of Automatic Suspension. The MSEC shall convene to review an automatic suspension imposed pursuant to Bylaws section 7.5.3(a) through (d) within five (5) business days. The review of the MSEC will not constitute a "hearing" within the meaning of Article VIII, and no procedural rules apply except those adopted by the MSEC. In the event that the MSEC determines to maintain the automatic suspension in place as mandated by the nondiscretionary terms of Bylaws sections 7.5.3 (a) through (d) above, the MSEC's decision is final and non-appealable. In the event that the MSEC votes to exercise its discretion to modify, extend or expand the automatic suspension beyond that which is dictated by the nondiscretionary provisions of Bylaws section 7.5.3 (a) through (d) above, the CEO will inform the Practitioner, by Special Notice, that he/she has a right to invoke the hearing procedures in Article VIII, and shall include with the notice the information specified in Bylaws section 8.3.1. In the event that the Article VIII procedures are requested, the automatic suspension, with the modification, extension or expansion recommended by the MSEC, shall remain in effect throughout the pendency of the hearing and appeal process. The affected Practitioner waives his/her right to a hearing by failing to request a hearing within thirty (30) days of receiving Special Notice of the MSEC's recommendation, and the matter is then transmitted to the Board for review and action, following the procedures set forth in Bylaws sections 7.4.4-7.4.6, above, with regard to summary suspension.

7.5.5 Corrective Action. Suspension does not preclude the imposition of other corrective action, nor does it require the prior imposition of other corrective action. Additional corrective action may be implemented if a suspended Practitioner admits, treats, consults, performs or assists in surgery or otherwise exercises any Clinical Privileges, or Specified AHP Privileges, as applicable, during the period of suspension. Corrective action may be taken prior to the time that automatic termination occurs (e.g., prior to the exhaustion of appeals after conviction).






7.6 APPLICATION FOR MEDICAL STAFF MEMBERSHIP AFTER TERMINATION

A Practitioner whose membership on the Professional Medical Staff and Clinical Privileges, or Specified AHP Privileges as applicable, have been terminated under this Article VII will not be eligible to reapply to the Professional Medical Staff for a period of two (2) years unless invited to reapply by the President of the Professional Medical Staff and the Chair of the appropriate Department. Any reapplication will be processed as an initial application, except that the Applicant will submit such additional information as may be required to demonstrate that the basis for the termination no longer exists.

7.7 CONTINUITY OF PATIENT CARE

Upon termination, suspension, restriction or resignation of Professional Medical Staff membership or Clinical Privileges, or Specified AHP Privileges as applicable, the President of the Professional Medical Staff or, at his/her request, the Chair of an appropriate Department or Section Chief, will assign the Practitioner's patients to one or more other members of the Professional Medical Staff. Reasonable efforts will be made to respect patient preference in making such assignments.

Participation in Training for: Michael Weinik [Temple University]

Program	Language	Assigned	Started	Stopped	Time	Status
2016 Disability Inclusion and Accessibility at Temple University	English	11/16/2016	12/29/2016 12:36:05 PM	12/29/2016 1:16:07 PM	00:57:26	Completed 
Clery Act - Short	English	4/9/2014	6/11/2014 9:36:20 AM	6/11/2014 10:50:05 AM	00:18:25	Completed 
Clery Act - Short	English	Elective	6/11/2014 11:39:31 AM	6/11/2014 12:37:13 PM	00:57:41	In progress
HazCom/Right To Know	English	11/13/2013	2/25/2014 1:35:34 PM	2/25/2014 2:05:04 PM	00:29:30	Completed 
Preventing Discrimination and Harassment for Employees	English	6/3/2014	6/11/2014 9:53:29 AM	6/11/2014 10:30:49 AM	00:37:18	Completed 
Reporting Child Abuse on Campus	English	6/3/2014	6/11/2014 10:31:48 AM	6/11/2014 10:47:13 AM	00:16:06	Completed 
Reporting Child Abuse on Campus	English	Elective	6/11/2014 10:47:39 AM	6/11/2014 10:47:43 AM	00:00:03	In progress

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Close Window

Background on other issue Sue Coull had a concern about

- Sue Coull oversees all the GME programs and the administrative staff for all the programs are in the GME department reporting up to Sue Coull
- The Manager of GME is Jackie Schacht and the Director is Luda Cruz
- Amber Dzikowski is the GME Administrator of PM&R and her office is located in the central GME office
- Amber has been in this position for year and half
- Luda and Jackie came to me about their concern regarding Amber and Dr. Weink
- Amber is not complaining but often goes to Jackie for outfit checks
- She would lean over and ask Jackie to look down her top to make sure you can't see anything
- Or she would just generally ask before she meets with Dr. Weink if her outfit is professional/appropriate
- Jackie said she wears turtle necks when she knows she will be meeting with him
- Amber has said he makes off color jokes
- He is over the top friendly
- She wasn't feeling well one time and had to leave. He called her and said "are you pregnant"

Sue Coull met with Amber around the first week of November. After Cora's complaint and before Sue met with Susan Wlegers to discuss Cora's complaint

Ambers comments:

- He is very complimentary about the job I do
- He would say "you're so good at your job"
- He likes to get personal- overly social – overly complimentary
- Mixes professional and personal
- She said she was sick on time and he called her and said "are you pregnant- don't leave us"
- He looks at my chest a lot. Amber says she is used to it by men. She can't help that she has a big chest. She tries to be very careful about what she wears when she is meeting with him
- He can be very informal
- She does not feel creeped out by him
- He has a need to be accepted

Background from November and December 2016 timeframe
Prepared by Susan Coull on March 15, 2017

Notes from 11/3/16 meeting with Cora Brown and Sue Coull:

- Cora described being in the EMG room to work on reports by herself over the lunch time break 12:30-1pm. It is shared room used by Dr. Maitin 80% of the time. Dr. Weink got upset about the use of the clip for a needle that is used by Dr. Maitin and said in an angry way no more using tape to hold the clip for the needle
 - He then made a comment asking her if she was going to the APE conference. Cora said no, she doesn't have anything to present and she doesn't want to take the time away. He made a comment like "you don't want to hang out us anymore" and "It's in Vegas, there are a lot of whore houses in Vegas I can bring you to one"
 - Another comment was made (not sure if at this time in the EMG room) about moonlighting. He asked Cora if she moonlights and Cora said no. And he said "don't you need the money... oh that's right... I forgot your husband does well..."
 - She said Dr. Weink asked about the number of EMG's she saw with Dr. Maitin and it should be 10. She explained the EMG # is based on the attending patient schedule, not the resident, so she has not control over it. Cora described Dr. Weink's behavior as strange, angry at times, suspicious.
 - Cora described something from 1 year ago:
 - She spent 1 month with him on outpatient in clinic
 - Around March of last year
 - It was about 4 weeks after she deliver her baby
 - He made a comment about her weight- said she lost weight and your tummy looks tight
 - She said he sometimes touches her hair but she thinks its just his way
 - In September 2016 Cora secured job at Abington after residency
 - He makes comments about her clothes – "I like your outfit" "you look great today"
 - Cora said she spoke with Dr. Maitin and he advised her to speak to me.
 - Cora said Dr. Maitin said there were complaints from other female residents in the past but they were not extreme enough to escalate. He advised her to see me so it can be officially recorded with GME
 - Other comments she said he made to her "what is it with you Asian girls, always into Jewish men". She explained his ex-wife is Asian. She told me about a comment he made about Jeff Loire, owner of the Philadelphia Eagles, and his wife Tina, who is Asian.
 - Cora said she respects him as a doctor and doesn't want to get him in trouble. She thinks he just tries to be everyone's friend, but as Chair he can't act like a friend.
- She said there is a lot of stress in the department between Dr. Maitin and Dr. Weink. They don't get along and it cause a lot of stress.

- She doesn't want to make a formal complaint in writing, and thinks that he just needs to be advised to be careful what he says and acts because he is in a leadership position now
- Asked not to disclose her name because she has to work with him and it would be difficult for her.
- We talked about themes and general inappropriateness

Dear Ms. Susan Coull,

I am Cora H. Brown, MD, PM&R PGY-4 resident and currently in EMG rotation under the supervision of Dr. Maitin/Dr Cruz for the month of February 2017. For the past few weeks I have encountered a few instances with Dr. Weinik in which his behaviors made me uncomfortable.

First, about 7-10 days ago I was getting out of the resident lounge in the basement of the Rock Pavilion and Dr. Weinik was entering in the lounge. Dr. Weinik blocked the door with his body preventing me from leaving the lounge. I told him that I needed to see a patient who came for an EMG study. He responded "Excused me! I needed to get in to the lounge." I pulled back to make room for him entering the lounge but he continued standing and blocking the door. I attempted to leave again and he continued rocking his body side to side preventing me from leaving. After the third attempt I was able to leave the lounge. His body came so close to mine when he tried to prohibit me from leaving the lounge.

Secondly, on Friday evening 2/24/17 at the wedding of my coresident (Dr. Paul Hurd's wedding), Dr. Weinik approached me a few times during the evening. He made comments about my body shape calling me "so skinny" and even labeled me as "an anorexic." He even made comments how sexy my dress looked but I was too skinny!!

Thirdly, on Monday afternoon of 2/27/17 around 3 pm in the public hallway of the basement in Rock Pavilion (the hallway where the employee health and outpatient PM&R clinic rooms locate) I was getting out of the EMG room with Dr. Ernesto Cruz after performing an EMG procedure on a female patient. Dr. Weinik was passing through the hallway and he stopped me and Dr. Cruz. Dr. Weinik spoke in a loud voice questioning why my last name was "Brown" and my husband's last name "Jachnicki." He bombarded me with questions like "Were you married before?", "Were you got divorced and remarried because your last name was different from your husband's last name?" and "Were you adopted?" I told him that these questions were personal and I did not feel comfortable answering in a public place. He again did not stop and had to comment on how I looked. He then told me my attire was not appropriate for work (I wore a khaki pant and long sleeve sweater with a pair of brown boots).

These instances came after other instances and sexual/ inappropriate comments he made of me in October 2016 at which time I brought them up to your attention. I was aware that Dr. Weinik got verbal warning during that time period.

Dr. Weinik continued showing very inappropriate behaviors and comments about my body shape, clothes and even so intrusive into my personal life in a public place where patients are being seen and in front of other health care professionals. His obsessive and stalking behaviors about me continue to occur at not only Temple University Hospital but at outside Temple hospital setting as well.

I feel so violated and so uncomfortable even putting my footstep around PM&R clinic worrying that I would run into Dr. Weinik and hear his inappropriate comments about me. These instances occurred while I was not even on his rotation. I would hope further action to be taken from the GME on this matter so that I can believe being at Temple University Hospital is for learning to become a PM&R physician rather than dealing with these sexual inappropriate comments/behaviors from a PM&R attending and Interim Chair dr. Weinik.

Sincerely Yours,

Cora H. Brown, MD



April 5, 2017

Michael Weink, DO
Interim Chair Person
Department of Physical Medicine & Rehabilitation
Professor of Clinical Physical Medicine & Rehabilitation

4/5/17

Dear Dr. Weink,

On March 2, 2017, the Medical Staff was notified by the GME office regarding a written complaint submitted by Temple Hospital PM&R PGY4 resident Cora Brown, MD. In the complaint, Dr. Brown detailed her concerns relevant to the scope and responsibilities of Physician Professional Conduct outlined in the Administrative Policies and Procedures document naming you, Dr Weink, Interim Chair, Department PM&R as the offender.

A copy of Dr. Brown's written statement detailing her allegations of disruptive conduct in addition, a copy of the Physician Professional Conduct policy have been provided by the Medical Staff Office. Also, ~~the inquiry has taken into consideration previous concerns starting on or about 11/3/2016 raised by the~~ same resident. Meetings and interviews to address and outline the allegations have taken place and were inclusive of Sue Coull, Dr Wieggers, Dr. Brown, and yourself. At the conclusion of the meetings, it was reported that you denied the accusations. It's noted that the accuser's identity was not provided to you at that time. Dr. Weiglers states that she expressed unease with your assessment and recommended that you undergo counseling. It was reported that you respectfully declined.

With regard to the most recent concerns submitted by Dr. Brown, separate interviews were conducted by Dr. Tedaldi and I which included: Dr. Weigers, Sue Coull and Dr. Brown, followed by Dr Cruz - prior to our meeting with you. At all meetings attempts were made to be comprehensive and constructive in securing any and all information relevant to the allegations. The objective was to identify the issues and to create a plan of action designed to ensure a safe and effective work environment for all parties involved.

Dr. Tedaldi and I have reviewed the complaint by Dr. Brown as well as the evidence provided and determined that there is insufficient evidence to fully support all of the individual allegations. However, we are persuaded that you are responsible in some part for an unwelcomed intrusion into Dr. Brown's personal and private space. Accordingly, we formally recommend that you undergo professional coaching with follow-up and that progress be provided to Dr. Kaiser, in lieu of the department Chair person. The Medical Staff will provide the resources in anticipation your acceptance.

Respectfully,

Vincent S. Cowell,
President, Medical Staff

Ellen Tedaldi
Past President, Medical Staff

Internal Memorandum

To: Vincent Cowell, MD

From: Allyson Saccomandi

RE: Coaching Assignment for Michael Weinik

In April of 2017, Dr. Cowell approached me to work with Dr. Weinik after a complaint investigation involving unprofessional behavior.

I emailed Dr. Weinik to set-up a meeting to discuss on April 12, 2017 and requested a time for the initial meet and greet. We held that initial meeting on April 19th at 8 am in the HR Office in Zone B.

The discussion was wide-ranging and Dr. Weinik was very emotional. He expressed concern about his reputation, gossip about the situation and lack of confidentiality in the process. He gave specific examples of other physicians approaching him and raising the topic. He was adamant that he understood why the issue was raised and committed to making sure it would not happen again. We discussed the root cause for such a problem and preliminary ways to avoid issues in the future. In addition, we discussed his current position as interim, his desire to be named Chair, and what he might need to demonstrate to be positioned for the permanent role. We agreed to seek more feedback and discussed the 360 review process as a tool, which he committed to participate in.

Later that day, April 19, 2017, I emailed Dr. Weinik all the relevant forms required for the process and instructions to complete.

On April 21, 2017 I emailed Dr. Cowell to confirm we had met and we were moving forward. On April 24, 2017 I emailed Dr. Kaiser with the same information.

On April 27, 2017 he reached out to tell me that he was behind in the process due to other commitments but was still interested in moving forward and would focus on it in the coming week.

On May 9, 2017 I reached out to meet with Dr. Weinik to move the process along. We met on May 11, 2017 and discussed where he was in the process of compiling raters. We also discussed the messaging for his invitation to participate. Dr. Weinik still had some work to do in finalizing the list. We discussed the pros and cons of some of the raters. In general my impression was that he would be able to gain the appropriate amount of honest insight with his selections.

On May 17, 2017 I reached out again to see if we could finalize his raters and asking for a time to meet. He indicated he was on-call and ill and that was slowing his process. We agreed to meet at 2:15 on the 19th. We had a good meeting and robust discussion. The rater sheet was finalized with appropriate names and we discussed how he would invite people to participate and he committed to customizing the invitation to participate and would send me the final draft. Dr. Weinik also committed to sending me the outstanding email addresses he needed to complete the setup of the survey.

By June 1, 2017 I had still not received the information I needed to start the process. I reached out to Dr. Weinik via email to say that I was concerned we were falling behind since I hadn't heard back from him on his final invitation and did not have the outstanding email addresses. I included a sample invitation for him to edit to help him move the process along. That evening he finalized the invitation and sent it back to me for approval. On June 12, 2017 I reached out again for the outstanding email addresses. He responded that he was learning something through the process about himself and his ability to follow through. He confirmed that he sent all invitations and wanted to add a few more names. In the end I launched the survey using the names he originally provided to me.

On June 30, 2017 we schedule time to meet face-to-face. We discussed the difficulty we were having getting to the point and the importance of follow through and the impact this has on his other work beyond the 360 survey. We discussed the current survey respondents and who had not responded. He committed to following up with those outstanding raters in order to finalize the 360 data. We discussed how he was interacting with residents, the boundaries he was setting and the importance of those boundaries. We discussed the current staff, openings, state of the department, staff engagement and morale, his vision and also roadblocks. He alerted me to vacation time and some conferences that were on the horizon. I promised to monitor his respondents.

On July 26, 2017 I emailed Dr. Weinik to let him know that the 360 was nearly complete with only his leader outstanding and asked how he wanted to handle the situation and I was looking forward to catching up with him. He alerted me to some medical concerns and then said he

would look into when he asked Dr. Kaiser to complete the 360. He then confirmed that he texted him a reminder. I let him know that as soon as it was complete we could sit and review.

Throughout the next several weeks I continued to monitor completion by his manager. By August 24, 2017 I closed the 360 without this feedback as the coaching assignment was beginning to drag on much longer than anticipated and there was relevant feedback from other that we could work with. I requested to meet with him on September 6th or 7th and ultimately was scheduled on September 13, 2017 to review the 360 feedback report.

We met on September 13, 2017 and debriefed the 360. We reviewed the written feedback and the top developmental opportunities and noted an overlap on several categories. I discussed the resources Dr. Weinik had to help him understand more about the competencies. His assignment was to determine the top 2 or 3 items that would become his focus. During this conversation he was open about the struggles of his team, the lack of vision, planning, and strategy of PM&R over the past several years, and his ability to balance the administration required of a Chair with his duties as a physician. We also discussed training opportunities for someone at his level and reviewed both physician leadership academy and the health system academy as possible opportunities. Once again we discussed the residents and his relationship with them. He noted with clarity the boundaries that were needed with his residents and the team now that he was Interim Chair. He again provided examples of interactions where he set those boundaries. We agreed on next steps and he asked me to contact his assistant to set up regular meetings since he does not have access to his own calendar for scheduling.

On September 18, 2017 I contacted Jean Tamasauskas and requested a meeting with Dr. Weinik in two weeks. I also requested that those meetings be recurring every two weeks through the end of December. Jean did not respond to my requests until October 6, 2017. She provided the following meeting times that extended later in the year than I would have liked or anticipated:

October 25th
November 17th
December 1st
December 15th

I was out of the office on October 25, 2017 due to a certification and rescheduled for November 3, 2017. During that conversation we discussed the minimal progress, but he said that he had been spending time thinking about the areas he needed to develop and was in fact formulating ways to move forward. Taking time to think through the feedback is not unusual. Since we had

regular meetings scheduled through the end of the year I felt comfortable at this point that progress could be made. During this meeting we spent most of the time talking about his team and how he envisioned the future of PM&R. We discussed the roles on his team, the impact of the roles on his time, funding in the unit, grant opportunities, working cross-functionally with other departments and development opportunities for his staff among other things. I shared with him the TUH goals and we discussed how PM&R could fit into the framework. He committed to setting goals for his team and sharing his future vision as next steps.

As in the prior meetings we also discussed his position as Interim Chair and how he was interacting with those on his team. He communicated again that he was seeing the value in setting professional boundaries between himself and his team.

On November 10, 2017, I sent him sample forms for planning goals and the electronic version of the TUH goal setting deck and told him that I was looking forward to seeing what he would pull together at our next meeting on November 17, 2017.

On November 15, 2017, Jean Tamasauskas canceled the meeting scheduled for November 17, 2017 and offered no re-schedule instead saying he would see me again on December 1, 2017.

On November 27, 2017 Jean Tamasauskas emailed to cancel my December 1, 2017 meeting. She asked if she should reschedule sooner or if the next meeting on the 15th would be fine. I opted to wait until the meeting on the 15th but was seeing a pattern of non-commitment to the process that has been prevalent from the beginning.

On December 15, 2017, Jean Tamasauskas canceled the meeting scheduled for that afternoon and rescheduled it for December 21, 2017.

At this point I was very concerned this assignment was not moving forward in a positive direction and that there was a lack of commitment to the process. While the discussions seemed positive when we did connect, there was a consistent lack of follow-up. I planned to meet with Dr. Weinik on the 21st of December to have a frank conversation about ending the assignment and then communicating with Dr. Cowell and Dr. Kalser on the situation.

On December 21, 2017 I met with Dr. Weinik and he pre-empted my agenda with a discussion on what he had been working on and implementing since we last met.

- Dr. Weinik set forth a plan for role clarification with regard to his team. He reviewed the specifics of team and individual discussions including providing PM&R physicians opportunities to teach. He highlighted a difficult conversation with a tenured physician, but felt it would turn out to be a positive over time.
- Dr. Weinik set forth a plan for development of staff, including himself, and outlined the physicians recommended for leadership academy and other development opportunities. He reported positive response from his team.
- Dr. Weinik updated me on what he wanted to accomplish in terms of grants and fundraising and that he discussed his ideas with his team. He also asked for their input on how to raise funds for PM&R.
- Dr. Weinik updated me on discussions with the physicians on timely billing and the importance of timely billing to the system.
- Dr. Weinik also outlined the beginning of a 3 year plan that would align with the building of the MOB and anticipated growth with regard to that change. This included the continuing partnerships with other departments.
- Dr. Weinik relayed two stories where he had the opportunity to socialize with a resident but declined in a continued effort to remain true to professional boundaries. We discussed the current environment related to inappropriate behavior, the #MeToo Campaign, and the importance of making sure all interactions are professional.

I was very surprised at the progress and the preparation of Dr. Weinik for that meeting and shared my surprise with him. I told him that I was not expecting him to have made that progress. We committed to the following next steps:

- He would support the attendance of his team at the development events he assigned.
- We would set up a schedule in the new year that would include meeting through March on his goals and development plan.
- He would attend all leadership sessions for Chairs as well as the TUHS Leadership Academy.

I have reached out to Jean Tamasauskas to schedule recurring meetings through March. Those meetings are schedule for:

January 26, 2018
February 2, 2018
February 16, 2018
March 2, 2018
March 16, 2018

I have registered Dr. Weinik for Leadership Academy in April. As we work through the academy sessions I will partner with Dr. Weinik for implementation of the concepts.

I have spoken with Dr. Tedaldi on including Dr. Weinik in Chair leadership sessions that are being held in early 2019.

I planned to provide my update to Dr. Kalser in January of 2018 as to Dr. Weinik's progress and plan for 2018. I have not yet sent that report as of the date of this memo, January 22, 2018.

This coaching assignment could have been more concise and focused. I originally thought this engagement would take us through the end of September. After refocusing I anticipated we would finish up by the end of December. I am hoping 2018 brings a renewed focus but I am concerned that it is not a priority. I am committed to working through April with Dr. Weinik. If the pattern of cancelations continues I would recommend ending the assignment.

A.S.

1/23/2018

iMessage
Today 9:12 AM

Acevedo

Goodmorning. I'm at the
York interview today. I
spoke with chiefs. Sorry
for the inconvenience.



Weinikiphone

Who did you speak to?
More important who did
you ask cover you?

Not a wise move, since
I'm very good friends
with Dr. Furman



Dzikowski, Amber

From:
Sent: Tuesday, January 16, 2018 8:10 AM
To: Dzikowski, Amber

WARNING:

**** EXTERNAL Message. DO NOT open attachments or click links from unknown senders or unknown emails. ****

I am writing to discuss some experiences, moments of concern, shame, and frustration that I experienced as a resident physician with my previous attending, Dr. Michael Weink.

In the current environment where women are finally being supported instead of hushed, deemed dramatic or ignored for telling their stories of sexual harassment and misconduct, I feel it is time to share some situations I experienced not very long ago at Temple as a pmr resident.

I was a PGY-2 when I had my first uncomfortable encounter with Dr. Weink. I was on consults and walking through the hall from the resident room through his clinic. He stopped me and asked me "So (my name), Are you a good girl or a bad girl?" I was puzzled and weirded out by the tone of his voice and the nature of his question. I asked "what?" He repeated "Are you a good girl or a bad girl? I bet you're a bad girl". I said "I don't know what you are talking about" to which he replied "yeah, you are definitely a bad bad girl, don't worry, we like bad girls at Temple". He then laughed and I felt awful and confused and I said "I don't know what you are even talking about" and I just walked away as he kept laughing.

That same year I was wearing an appropriate length work skirt that just showed my knees. In that same hallway he stopped me and asked me if I was hyper-mobile. I said "I don't think so". He then knelt down on his knee to take a look at my knees and then touched the popliteal area of my leg with his hand as he looked from the side and he then said "you are like Gumby, you look like you are probably so flexible." I said "No, I am not" and I backed away from his hand. He responded "I would like to find out for myself". Again I walked away and this time I remember laughing out loud to try to reduce the awkwardness. I was in fear that one day I had to work with this guy. I didn't want to piss him off but I felt violated.

I avoided him as many female residents do because of his unusual and often perverted comments regarding any female: patients, nurses, therapists, and residents. Anyone was fair game and male residents would often pretend to play along and say "It's just Weink being Weink." I never understood that excuse.

As a PGY-3 I had only one rotation that I had to work with him once a week in March because I had an outpatient block and Weink always needs extra residents assigned as the "helper resident" on his rotation because he cannot seem to effectively complete a clinic without lots of resident help. I was already on guard but he was generally friendly and yes he would make comments but I was glad they were not directed at me. But then I saw how he treated young female patients or just pretty women differently than other patients. His exam would become "extensive" as he would check for various pathologies but it always seemed overboard and frankly made me really uncomfortable. Other residents would make comments like "oh boy she is a pretty girl, looks like this should take about an hour". I hated those encounters as they were unnecessarily "handsy" exams and the patients were oblivious to the fact that he was touching them everywhere looking for god knows what. I understand the importance of the physical exam but this was just over the top and only directed at a specific population - females - especially young and pretty.

He had one patient that he saw on his list and he said "she comes in to see me because her husband doesn't give her enough loving. Weink will make sure she is taken care of, haha. She will get all dolled up for me and just watch, she will have me adjust (osteopathic manipulation) her and I'll make her feel good." He would make these comments with a tone and smile that was so unprofessional. I always thought to say something but again he was the boss, the attending, the guy filling out my evaluation. I didn't want to anger him in any way but I hated how this all made me feel.

That month we had our yearly physical examination workshop at pcom. He called me to the stage in the front of everyone so he could demonstrate the lower body physical examination maneuvers on me. I declined and lied and said I had a spinning injury and I didn't want to make anything worse. His response in front of everyone was "If something is wrong I'll find it so just come up here." I obliged because I felt cornered after that response but I really didn't want his hands to touch my body. I had the right to decline but couldn't because he was insisting I participate. I went up there faced everyone and he was behind me. First thing he says is to check range of motion of my spine by touching my toes. I said I can't touch my toes. And he said "sure you can, just try, I won't tell them about your tramp stamp." I was super offended. I don't have a back tattoo aka a tramp stamp and that was just a super demeaning unnecessary comment. He laughed as did the whole audience. I felt embarrassed but tried to just go with it to get the whole thing over with. He then had me stand and said he was checking my ischial bursa and he said "very nice, very nice". Again uncomfortable audience laughter... I didn't like his hands on my buttocks because I felt like I was just like those patients he manipulates... in an impossible position. Then he went on and on hand everywhere and eventually saying he was going to check for pubalgia also known as a sports hernia or athletic pubalgia. This is a chronic groin lesion but to check he essentially would be pushing my pubic symphysis in front of everyone. I said "I don't know about all that". Before I could stop him his hand was on not just my pubic region but on my vulva. I shot up off the table and said "yeah that's not my pubic symphysis". Everyone started laughing, I was mortified but tried to play it off. I was beyond offended and felt manipulated, used, embarrassed and horrified. A male chief resident came up to me right away and asked if I was ok. When I said "yes I'm fine" he eased up and said "damn he didn't even buy you dinner before that." I went home and called my sister and another co-resident and cried... a lot.. not just that night either. I carried it with me. They encouraged me to say something to my chairman or to GME or anyone, even Weinik himself. I said I would and I didn't... probably because I thought it wouldn't make a difference, that I would be ignored, that "Weinik was just being Weinik", because I was scared and embarrassed and wanted to just move on.

My #1 scheduling request was to work on the Weinik rotation in February because it's a short month and the EMG course would reduce the number of days of interaction. He is a good teacher and I learned a lot from him about the spine and sports. He has good qualities and attributes as no one is all bad. His behavior and comments were just often unacceptable.

But now I fear for others and feel I must open up about this. I still feel the need to remain anonymous because pcom is a small field and he is well connected. I work near and don't want my job or my life to be compromised and I don't want sympathy. I just don't want this to happen to others.

Confidential

Physician Professional Conduct Policy – Investigative Report Summary Description: The President of the TUH Medical Staff, Vince Cowell, MD, was made aware of a complaint against a medical staff member (Michael Weinik, DO) on January 17, 2018 which possibly constitutes a breach in professional conduct. In compliance with the Physician Professional Conduct policy, Dr Cowell organized a panel (himself and Past-President, Ellen Tedaldi, MD) to conduct the investigation.

The issue was brought to Dr Cowell's attention by Susan Coull, Designated Institutional Official for GME, Assistant Dean, and Associate Hospital Director for Medical Education (Attachment A), following 2 concerns:

- 01/15/18 - The GME Administrator brought a concern to Ms. Coull's attention re: Michael Weinik, DO following a conversation the GME Administrator had with a senior PM&R resident
- 01/16/18 - The same GME Administrator received an email from a 2015 PM&R graduate re: Michael Weinik, DO

Process:

01/25/18 – Meeting with Senior Resident, Philip Acevedo. The following are the observations, interactions, impressions and opinions expressed by Dr. Acevedo regarding his experience with Dr. Weinik during his (Dr. Acevedo's) residency:

- Dr. Acevedo described an incident that he witnessed when on a rotation with Dr Reed Williams. A young, female patient was being prepped for a procedure in a prone position when Dr Weinik took over the prep. Dr. Acevedo believed that the prep area was unnecessarily extended to reveal the patient's buttocks and Philip believed that the patient was uncomfortable based on her facial expressions. Dr. Acevedo excused himself in hopes of minimizing patient's discomfort as there were 3 men in the room. He was later asked by Dr Williams why he left the room and Dr. Acevedo explained that the patient seemed to be uncomfortable and, according to Dr. Acevedo, Dr. Williams responded that he understood and also confided that the patient requested to not be seen by Dr Weinik again.
- Dr. Acevedo shared that as a resident, you observe many different attendings and there is a difference in Dr Weinik's approach.
- Dr. Acevedo explained that things may get "blurred" between a MD exam and a DO exam, but approximately 50% of residents in the program are osteopathic and they feel uncomfortable with the exams done by Dr Weinik.
- As a resident, you notice a pattern in how Dr Weinik treats his patients. There is a difference between young female patients and other patients. Dr Weinik will spend 45 minutes with a young female patient compared to 10 minutes with an older male patient. Residents will say "Oh, there is a young female patient scheduled, Dr Weinik will be awhile."
- Dr. Acevedo agreed that there is an understanding among residents that if someone refers to "That's a Weinik" all residents understand what that means.

- Dr. Acevedo believes that every resident will feel the same way regarding Dr Weinik, but no one will question anything as everyone needs a letter of recommendation from Dr Weinik.
- Dr Cowell asked if Dr Weinik was threatening to Dr. Acevedo. Dr. Acevedo shared a story where he was on an interview and could not find coverage. Dr. Acevedo had a text message exchange with Dr. Weinik and his Program Director (see Attachment "A") explaining that he was at a fellowship interview and described his efforts to find coverage. Dr. Weinik indicated that he knew the person Dr. Acevedo was interviewing with and said "not a smart move". Dr. Acevedo took this to imply that his fellowship chances would be hurt. Dr. Acevedo did not get that particular fellowship.
- Dr. Acevedo shared that Dr Weinik does patient simulated demonstrations at PCOM and uses residents as the patient. Dr Weinik seems only to choose female patients and stated: "It fits the pattern, so you feel uneasy about it".

01/25/18 – Meeting with GME Administrator, Amber Dzikowski. The following are the observations, interactions, impressions and opinions expressed by Ms. Dzikowski regarding her experience with Dr. Weinik in her role as a GME Administrator:

- Two residents have come to Amber to discuss Dr Weinik.
- Amber explained that she hears a lot of stories from residents regarding Dr Weinik's inappropriate behavior.
- Dr Cowell asked if she had any inappropriate dealings with Dr Weinik. Amber responded that she feels uncomfortable around him, that his eyes would look at her chest and not her face and he is very complimentary of her hair and outfits. He asked very personal questions, he asked if she was married and then asked why she wasn't married. He is very friendly, overly friendly. Amber feels that he wants to be everyone's buddy.
- Amber hears that he uses his position as Chair as a fear tactic. He openly tells residents that they need a letter from him. He is notorious for making phone calls to either praise a resident or say "don't take that resident".

02/01/18 - Meeting with Senior Resident, Nicholas Kinback. The following are the observations, interactions, impressions and opinions expressed by Dr. Kinback regarding his experience with Dr. Weinik during his (Dr. Kinback's) residency:

- It has become a joke among residents that Dr Weinik spends more time with young, female patients and that Dr Weinik is more "hands-on" with young, female patients.
- There is "nothing illegal" in the exams; there is just a pattern of behavior that the majority of residents have noticed.
- Dr. Cowell asked Dr. Kinback if he ever witnessed anything with regards to Dr. Weinik that made him feel uncomfortable. Dr. Kinback noted that nothing has made him feel uncomfortable but he has observed that certain patients get checked a little differently than others, by certain patients, Dr. Kinback, means younger females. Younger females get a more thorough exam like pelvic tilt and muscle energy. All exams are medically appropriate but only done on certain patients.

- Out of a class of 9 residents, Dr Kinback has heard at least 6 residents make the same comments and observations.

02/06/18 - Meeting with Chief Resident, Katie Hatt. The following are the observations, interactions, impressions and opinions expressed by Dr. Hatt regarding her experience with Dr. Weinik during her (Dr. Hatt's) residency:

- Dr. Hatt has never had a personal incident with Dr. Weinik ever saying or doing anything inappropriate, but knows that if Dr. Weinik has a younger attractive female patient that Dr. Weinik will be more thorough and take longer during the examination.
- Dr. Weinik always chooses female patients for the patient simulated demos.
- "It is difficult because I see things that don't seem right but not sure if they are really wrong; he is always within the scope of practice. For example, I observe Dr. Weinik asking personal questions of his patients like 'what are you going to do later tonight?'"
- "The exams are not inappropriate but you notice a pattern."
- Dr. Cowell asked if Dr. Hatt has experienced Dr. Weinik intimidating residents or holding his position over a resident to get a letter. She responded, "In my experience Dr. Weinik does not follow through on giving letters but everyone talks about getting a letter from Dr. Weinik."
- Dr. Hatt did share that in her position of Chief Resident, she creates the resident schedules and "Dr. Weinik throws a hissy fit if you take a resident from him even on a light patient day." Dr. Hatt feels that Dr. Weinik uses his position as Chair to insist on getting a resident scheduled with him.
- Dr. Cowell asked if Dr. Hatt was ever chosen to be a model for Dr. Weinik. Dr. Hatt said yes and that she didn't feel uncomfortable until someone pointed certain things out.
- Dr. Hatt said that Dr. Weinik's patient exams on young female patients are longer. Dr. Weinik uses some of the time as just more social time, talking more with the patients. And the physical exam is always more thorough.

Dr. Cowell shared that he had spoken with Susan Wieggers, MD to see if she had any additional information to add to the investigation and she had nothing further.

02/06/18 - Meeting with Resident, Rakhi Vyas. The following are the observations, interactions, impressions and opinions expressed by Dr. Vyas regarding her experience with Dr. Weinik during her (Dr. Vyas') residency:

- Dr. Vyas believes there have definitely been times where she thinks Dr. Weinik was inappropriate. Dr. Vyas does not believe that there has ever been any physical inappropriateness. Dr. Cowell requested that Dr. Vyas elaborate on what she believed to be inappropriate. Dr. Vyas explained that one time last year she was wearing a black dress and Dr. Weinik commented that "there are only certain times a girl wears a little black dress and one of those times is when she is on the walk of shame".

- Dr. Vyas believes that when Dr. Weinik sees an attractive female patient, he is more thorough.
- Residents will make comments like, "Oh, that's a pretty patient, this will take a while."
- Dr. Vyas was asked about the patient exams: "Dr. Weinik doesn't do anything inappropriate but he takes much longer with the patient."
- Dr. Vyas was asked if this meeting was a surprise and if this is behavior that she believes needs to be addressed, or if this is perhaps over the top. Her response: "Not surprised, residents all know how things are. I think this needs to be addressed because he says inappropriate things. I just don't let things get to me. Maybe that's not good and I should have said or done something."
- Dr. Vyas was asked what a longer exam entails, her response: "different techniques are used, longer social time, more exams."
- "I don't think in my experience that Dr. Weinik has ever said anything inappropriate to a patient."
- "I think he favors doing simulation exams on females. I was a model and I did not feel strange when he did the exam."

02/08/18 -- Dr Cowell sent ' an email requesting a personal interview to discuss the allegations in her email (See Attachment "C"). i never responded.

02/06/18 - Meeting with Faculty, Reed Williams, M.D. The following are the observations, interactions, impressions and opinions expressed by Dr. Williams regarding his experience with Dr. Weinik:

- Dr. Cowell explained to Dr. Reed that there was a report of potential unprofessional conduct during a patient procedure and indicated that Dr. Reed was present. Dr. Reed had a vague recollection of a situation where a resident stepped out of the room during a procedure because the room was too crowded. Dr. Reed does not recall that there was anything inappropriate or egregious or that there was an aggressive prep field.
- Dr. Williams was asked if he was familiar with the lore that Dr. Weinik spends additional time with young, attractive patients? Dr Williams responded: "Dr. Weinik is a connector. He is gregarious. I remember that as a resident he may have spent more time with patients he had a history with. I don't recall ever thinking that he was ever out of bounds or inappropriate but I do remember thinking that there were some things that he said that I would not say. He is a phenomenal clinician; he senses patient's anxiety and may respond to that by spending more time with them. I have been around Weinik a long time and nothing he has done would be questioned as inappropriate."
- Dr. Williams was asked if he has had any patient say anything to him about Dr. Weinik. Dr. Williams response: "I had one patient say that she didn't want to see him but I think that was because she wasn't getting anywhere with her treatment."
- "He is a consummate clinician and the only thing is sometimes he may say things he shouldn't."
- "He is a dear friend so this is difficult."

- "He may be overly flirtatious and we (i.e., Dr. Williams and Dr. Weinik) have had sidebar conversations about this."

02/20/18 – Meeting with Michael Weinik, MD

- Dr. Cowell reviewed the process that has occurred and provided Dr. Weinik the email (Exhibit "C") to allow Dr. Weinik to re-review it. (The email author was redacted).
- Dr. Weinik commented when reading the email, "I don't know who this is; I can't put a name to it. I am trying to remember. I do recall one incident, and I am the one to teach hands-on exams because I'm an osteopath and I take seriously what I do. What I do is ask someone from the audience come up to examine. We demonstrate curves of spine, pelvis and hip. Then everyone breaks down in to tables so I walk around to answer questions and offer help. I do remember someone asking me to demonstrate an exam as I walked around and I do remember someone jumping-up and saying 'that's not the (?)' and another resident saying 'he didn't even buy her a drink.'" "I can't recall the individual who that happened to."
- Dr. Weinik reviewed the complaints and addressed several points.
- "I run late with all of my patients. I don't feel like I run later with women than men. I have never had a patient complain in 32 years of treating patients. I have never handled a patient inappropriately."
- "I feel bad that I don't know who this (referring to complaint) resident is cause I would have corrected. She had a horrible experience and I regret that. Had I known she was uncomfortable, I would not have examined her".
- Dr. Cowell asked Dr. Weinik if he understood our responsibility to investigate, and Dr. Weinik responded "yes".
- Dr. Weinik indicated that since the last complaint, he has towed the line. He said he is extremely careful. "Since that time I don't go out for drinks, I don't go to the resident bbq, I don't go to the holiday party, I don't go out to any social events. I have separated myself completely from the residents. I don't want to be in a situation where I can be misconstrued."
- "I have known some of my patients for over 30 years so maybe I do get too casual."
- "I don't like to hurt anyone. I don't like conflict."
- "I came here as a young professor so when residents say 'that's Weinik being Weinik' I'm not the same Weinik."
- Dr. Tedaldi asked where these reactions from residents may be coming from. Dr. Weinik's response: "I have been very mindful since last year. I don't think this was recent or I would have remembered it. I don't know who this was."
- (Referencing the complaint) "This is not acceptable; I was not a good person for this person. I think I have done better. I have given up having certain relationships..."
- "I have done a lot of soul-searching. I like to teach, that's why I am here. The fact that I'm doing this bothers me. I think about how I do everything, try to be mindful of what I do. I am different."

- "If I knew who this was I would apologize. This can't happen. I own it."
- "I know what I have to do. But I get depressed that my behavior has hurt anyone. I am disappointed in myself, that I didn't see this. I am not the type to consider suicide."
- Dr Cowell explained that the process will proceed as last time and Dr Kaiser will be presented with a report



3401 North Broad Street
Philadelphia, PA 19140

March 15, 2018

Michael Weinik, DO
"VIA HAND DELIVERY"

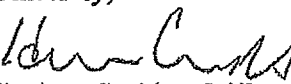
Dear Dr. Weinik:

This shall serve as your Special Notice (as defined by the Temple University Hospital Bylaws of the Professional Medical Staff ("Bylaws")) that, today, the MSEC recommended that your Medical Staff membership and privileges be terminated effective immediately. This recommendation has been made pursuant to Article VII 7.3.2 of the Bylaws, and more specifically pursuant to the provision that "at all times the MSEC, in consultation with the CEO of the Hospital, will retain authority and discretion to take whatever action may be warranted by the circumstances, including summary suspension,... or other action, as otherwise set forth in these Bylaws." The MSEC's recommendation was based upon its receipt and consideration of a report that summarized a recent complaint (of which you are aware), the investigation that then ensued under the Physician Professional Conduct policy (TUH-ADMIN-950.1044) and previous allegations of professional misconduct that had been made against you.

I have enclosed a copy of the Bylaws and the Physician Professional Conduct policy for your reference. I invite your attention to article VIII of the Bylaws, which sets forth your rights in these circumstances. Please be advised that you have thirty (30) days from your receipt of this Special Notice to invoke your right to the hearing procedures set forth in Article VIII. Your request must be in writing and should be addressed to Verdi DiSesa, M.D. – CEO of Temple University Hospital. In the event that you do not invoke your right to the hearing procedures within thirty (30) days, you will be deemed to have waived your right to a hearing and to have accepted the MSEC's recommendation to terminate your Medical Staff membership. In that case, the recommendation will be submitted to the Board for review and final action.

Please know that you are being removed from the PM&R schedule and will not be scheduled for inpatient service nor seeing outpatients while the Bylaws process takes place.

Sincerely,


Herbert Cushing, M.D.
Chief Medical Officer

Enclosure

cc: Verdi DiSesa, M.D. – CEO, Temple University Hospital
Robert M. McNamara, M.D. – Chair, TUH MSEC
(w/o encl.)

From the desk of

Scott Naftulin, D.O., FAOCPRM, DABPMR

RE: Michael Weinik, DO

To whom it may concern:

This letter is being sent in regards to a recommendation provided to our Interventional Spine and Musculoskeletal Fellowship program for our next fellow, Phillip Acevedo, MD, by Dr. Weinik. Dr. Weinik's recommendation positively influenced our decision to offer our fellowship position to Dr. Acevedo. Nothing inappropriate was discussed or otherwise mentioned. Dr. Weinik exhibited the utmost professionalism throughout.

If you should have any other question or concerns, please feel free to contact me at your convenience.

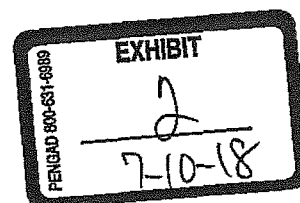
Respectfully submitted,



Scott Naftulin, D.O.

Fellowship Director

NERA Spine & Sports Medicine





Bruce L. Castor, Jr.
610.285.7338 (Direct)
Bruce@RogersCastor.com

July 7, 2018

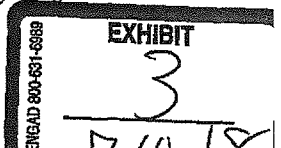
Shivani Dua, MD
c/o Main Line Spine
South Henderson Rd.
King of Prussia, PA 19406

Re: Your complaint against Dr. Michael Weinik

Dear Dr. Dua:

We are counsel to Dr. Michael Weinik. There is a hearing scheduled for Tuesday, July 10, 2108 at 5:30pm in the 9th Floor Executive Conference Room in the Boyer Pavilion of Temple University Hospital, 3509 N. Broad Street, Philadelphia, PA 19140. That hearing is to determine what recommendations will be made concerning Dr. Weinik's future employment at Temple which could also have further serious repercussions for Dr. Weinik. Counsel for Temple has informed me that you are not scheduled to be a witness against Dr. Weinik, but that what you told others about an incident some four to six years ago during which you were a teaching subject before a class where you said Dr. Weinik made inappropriate comments that embarrassed you before the group and where you said Dr. Weinik touched you on an intimate part of your body without what on an actual patient would be considered a good medical reason. Dr. Weinik denies he did anything wrong.

Witnesses at this hearing will be sworn and give evidence under oath with a court reporter making a record. Should the hearing go ill for Dr. Weinik, he will appeal to the hospital Board and ultimately to the Court of Common Pleas of Philadelphia County where any civil trial starting from scratch would take place. Since the hearing on Tuesday evening is not a court proceeding in the normal sense, hearsay testimony (i.e. other people testifying as to what you told them) is admissible. That is why Temple can go forward now without you physically being present. However, you may certainly appear and testify if you



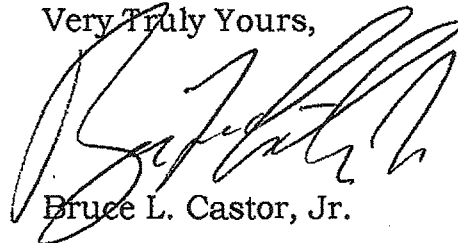
wish, and I invite you to do so. Should the case progress to a Philadelphia courtroom, as it certainly will should Temple take an adverse action against Dr. Weinik as a result of what you reported, hearsay generally is *not* admissible, and you would be obligated to give testimony under oath both at a deposition and at any trial that might ensue. That is the ordinary course of a civil case and should not concern you in any way. It is a basic rule of court in the United States that persons accused of improper conduct receive an opportunity to confront their accusers.

There is nothing that requires you to attend and participate in the hearing on July 10th, though. I write to ask you to come on the 10th so that the panel of doctors, counsel for Temple, and I can see and hear from you to make a first hand assessment of what you have to say potentially detrimental to Dr. Weinik's career, and his professional and personal reputation. I suggest that the stakes are too high for Dr. Weinik's future to be determined by hearsay testimony.

While I have no reason to feel adverse to you and most assuredly hold no preconceived opinions, I remind you that I am Dr. Weinik's lawyer which puts you and me on opposing sides in this litigation. It is not for me to say whether you, yourself, should be advised by your own counsel. But as time is short, if you do in fact decide that having your own lawyer is a good idea, I respectfully request you have that lawyer contact me as soon as possible.

It is my intent to have this letter delivered to you in person. I am going to try to send it by text as well. If you acknowledge receiving it by text, then I will cancel having it delivered in person. The last thing I want to do is cause you the aggravation of receiving an unscheduled visit from a stranger simply to drop off a letter. So if you receive this via text, kindly text me back that you did. Thank you.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Bruce L. Castor, Jr.", written over the typed name.

Bruce L. Castor, Jr.

cc: Michael Weinik, DO

From: Adam Mullan <acmullan@icloud.com>
Subject: Phone Conversation
Date: July 9, 2018 at 8:26:38 AM EDT
To: sportsmeddoctor@gmail.com
Cc: bruce@rogerscastor.com

Good morning Dr. Weinik,

Unfortunately, I will not be able to make the trip up to Philadelphia tomorrow to testify on your behalf due to clinic obligations here in Pensacola, FL. Otherwise, I would be present to testify.

I recall participating in the annual musculoskeletal anatomy and physical examination class held at PCOM at which Dr. Dua was a model for Dr. Weinik to explain various concepts to the class of residents and to demonstrate different physical examination maneuvers from the Malanga textbook. I recall Dr. Dua acting as a model and Dr. Weinik using her for demonstration purposes. This was a class full of residents; the demonstration was on a raised platform with cameras and a microphone transmitting images and sound to television screens and speakers throughout the room to improve visibility and audibility. I do not recall a time where Dr. Weinik made any jokes at Dr. Dua's expense. I do not recall seeing Dr. Weinik do anything unprofessional toward Dr. Dua, nor hear him say anything unprofessional.

I have acted as a model for Dr. Weinik on numerous

occasions and I have not seen that Dr. Weinik displays a preference for female models over male models.

Sincerley,

Adam C. Mullan, M.D.
acmullan@icloud.com
302-898-6189



June 27, 2018

Michael Weinik, D.O.
34 St. James Court
Philadelphia, PA 19106

RE: Dr. Philip Acevedo

Dear Doctor Weinik:

The following is a response to your correspondence in which you asked whether you had positive or negative influence on Dr. Acevedo's fellowship application when he applied last year.

To respond to your request, I pulled his fellowship application file. The letters of reference in his file were from Dr. Maitin, Dr. Cruz and Dr. Schwartz. As you know, you never provided a recommendation letter for him. Likewise, you and I never even spoke about him during this application process.

We are fortunate that we have very strong fellowship applicants. Although Dr. Acevedo was on our final list of applicants, he was ranked lower in our list than the ones who were offered each of our six available positions and accepted. I was able to access our ranking list and Dr. Acevedo would most likely have been offered a spot had two more people turned down our offers.

As you are aware, there are many factors that are in play when we choose and rank fellows. Although Dr. Acevedo would most likely have been a good fellow here, we accepted those ranked higher than him.

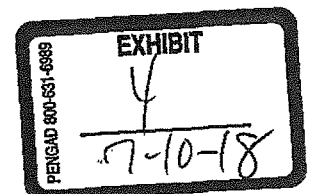
To specifically address your question, you had absolutely no influence on our decision since you did not write us a letter, nor did we even discuss his application.

I hope this addresses your concerns. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Michael B. Furman, M.D.

MBF/bls



Final Written Argument of Dr. Michael Weinik

Hearing Date: July 10, 2018

Submitted Post Hearing: August 6, 2018

I appreciate being given the opportunity to read the transcript of the evidence presented at my hearing on July 10, 2018.¹ One thing I found of interest was that the panel had witnesses sworn in before giving testimony. That evidently was so witnesses would understand the importance of telling the truth and that if those witnesses lied, they could be prosecuted for perjury, which I gather is a pretty serious crime.

The more I thought about the significance of the oath for the witnesses, the odder it became to me. You see, accusers: Drs. Dua, Brown, Acevedo, and the rest were NOT ever sworn to tell the truth. Only Temple investigators relating what these witnesses against me supposedly said were sworn. But the information these investigators related at the hearing, which I am sure they did

¹ My lawyers submitted a list of procedural objections in writing that were made part of the record. As it was evident to me that the panel was not interested in hearing of such "technical" objections (e.g. Temple offering to provide me, *after* the hearing for which I had prepared, with the policies and by-laws in effect at the time of my supposed transgressions. Thus, I could not use the correct "law" to prepare my defense). (e.g. p.51 line 14 where Dr. Daly says my counsel can compare the relevant documents *after* the hearing. To my knowledge, this did not happen, and that Temple should have done this *before* the hearing and before providing me the regulations they said were at issue.) I reference those objections here only because my lawyers insist I need to do something they call "preserve" the objections for use later in court. Supposedly, I might be deemed to have "waived" those objections if I do not give the panel an opportunity to first consider and deny them.

as accurately as they knew how to do, that information, itself, was not given to Temple's investigators under oath. Ever. Or recorded electronically that I know of, presented before a notary, or even signed with a signature! Their credibility was never tested by cross examination. Ever. And yet, *all my* witnesses testifying did so under oath, and under penalty of perjury, to events they actually saw with their own eyes, and heard with their own ears. In short, MY witnesses not only travelled, many from great distances, at their own expense to wait around for hours, and endure the hassle of having to testify against their *alma mater*, Temple University, they did so knowing if they lied, they could go to jail. In fact, I had nine other witnesses "on call" to further buttress the lies of Dua, Acevedo, Brown and the rest which the panel stated was not necessary, as the panel had heard enough. Does that mean the panel had heard enough that it *believed* my witnesses that Temple² presented non-credible sources in its effort to convict me and ruin my life?

You see, not one of my accusers testified, nor even submitted an affidavit or a signed statement at all! NONE of THEM face going to jail for lying under oath. But all my witnesses did, plus the many more who were willing to go under oath. 30 years of service to Temple, and Temple investigators want to end my career entirely on hearsay testimony. And unreliable hearsay at that!

² Except where it is evident that I am referring to the entirety of the University, when I refer to "Temple" here, I am referring to that arm of the Temple University Administration charged with investigating allegations of misconduct against me. Naturally, I recognize that the panelists are part of "Temple," as I hope I still am, and will so remain.

Important thing. Despite what Temple investigators would have you believe, even under the peculiar rules of the hearing conducted on July 10th, "hearsay" generally is NOT to be considered by the panel. Here is what is says in Temple's By-Laws about the use of hearsay testimony: "...hearsay will be admitted **if** it is the *sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs...*" (By-Laws 8.4.6, p.76) (*Emphasis added*). The so-referred to "responsible persons" are the members of this hearing panel. The question for the panel members becomes: "am I 'accustomed to rely' on the hearsay evidence Temple presented in the "conduct of serious" matters in my own life?" I cannot believe that any of the doctors on the panel would rely on this hearsay evidence to make *any* important decision in his or her private or professional lives.

In short, you must be so convinced the evidence Temple presented was true. that you would rely on such evidence if you were making a decision of personal importance to you, yourselves. As we are all doctors with a desire and responsibility to heal people of illness or injury, let's put this question into that context. How do we decide how to treat a person suffering from illness or injury?

Ideally, we treat patients by meeting them face to face and listening to their symptoms. We conduct in-person examinations using our skills and knowledge from our education and years of experience. Further, when we are not certain of the extent of the illness or injury, we will order tests to rule in or rule out the cause and severity of the problem and to corroborate (or disprove)

our initial diagnosis. Then we discuss the medical issue, perhaps first with colleagues, and then later with the patient. We provide the patient with proposed treatment options, and then the patient consents to a course of treatment. This is under ideal circumstances where we have access to the patient, records, and to all the tools of our profession to assist us in deciding how to go about helping the patient.

But what do we do when the patient cannot speak and is not even in our presence? Perhaps the patient is unconscious or semi-conscious on the side of the roadway being attended by trained paramedics in contact with us by telephone, and the paramedic is relating to us the patient's vital signs, observations of the patient's pupil dilation, observations of the patient's ability to breathe or signs of broken bones or internal injury. What do we do then? We rely on the information transmitted by the paramedic and we tell the paramedic how to treat that patient right then and there to save the patient's life and stabilize the patient for transport to the hospital. Has what the EMT told us hearsay? Sure. It is information gained outside our presence from the patient, the diagnostic readings outside our presence, anything the paramedic learned from other people on the scene, etc. But we go ahead and we tell the paramedic how to treat the patient anyway. Why? Because we trust that the information the paramedic is relaying is, itself, reliable. The key, though, is that this is precisely the type of hearsay that we doctors have become accustomed to relying upon in making professional decisions. How can we be sure? We can't. But what we can say is when the stakes are so high that it is

a "serious" matter, this is the "kind" of hearsay we find reliable. And it is **only** that kind of hearsay that is admissible in Temple's case against me according to Temple's by-laws.

Let's take the same example of an injured person on the side of the road and you are an attending emergency doctor on the telephone trying to figure out how to treat this person before getting them to the hospital. However, instead of an EMT from an emergency company speaking to you from on scene, it is the patient's spouse who was a passenger in the car when it wrecked injuring the patient. The passenger says her husband is awake and alert with just a small bump on his head. The car is still drivable and the wife says, while they are both scared out of their wits, she holds a master's degree in emergency room nursing specializing in head trauma cases, they live close by and are going home. She says they are shaken up, but "fine now," and she "knows" these things and "knows" her husband. Every fiber of your medically trained being is screaming: "no!" There are all sorts of injuries that might not immediately manifest themselves. But, you hesitate on account of what the wife said about her medical experience and knowledge of how her husband ordinarily behaves. You have no reason to disbelieve another medical professional. You are *inclined* to agree that the wife is in a good position to know, but you order the wife to take her injured husband to the nearest hospital. No response. This bothers you. Nothing you can do, though. You don't know where the call came from.

Late the next day, a man presents at the ER with a sobbing wife. The man is unresponsive, seemingly dead from severe brain swelling and the wife, who turns out really is an advanced ER nurse, appears inconsolable. It is the couple from the call the night before. The man has been dead for many hours.

Like the EMT in our first example, the wife in this example had given you her observations, qualifications, and she sounded self-assured. You were tempted to agree because she was a professional. In fact, you ultimately disregarded that hearsay, though you *initially wanted* to believe it. Why did you disregard it? Because you are a "responsible" person and you are NOT "accustomed" to relying on that kind of hearsay information in "serious" matters regarding your professional judgement. Even when it *appeared* that the hearsay from the wife was reliable. You believed her, but that was not good enough when lives are at stake. You're sad the man died, but it is not weighing on your conscious, right? You tried to do what was right. What more could you have done? The wife/nurse was *absolutely determined* to get her way.

Later, a police detective you have known for years because you work in a trauma unit, and an assistant district attorney who works homicide cases for whom you have testified, both serious with grim faces, politely ask to meet with you. This is business. Turns out the husband died from a brain hemorrhage, this much you knew. By the terms of his living will, his wife asked that no extraordinary measures be performed after other doctors told he there was no hope of resuscitating him. He was cremated at his wife's insistence under her power of attorney. You're confused. Why are a seasoned detective and a

homicide ADA talking to you? It turns out that, yes, the wife is a nurse. In fact, she does have an MS in nursing and cares for brain injured patients at Temple University Hospital. But, the couple were heading for a divorce and a bitter fight over dividing their assets and custody of their young children. And the now-deceased husband/father had \$5 million in life insurance with his wife as his sole beneficiary. The DA's Office calls that "motive" for murder. And it was the wife/beneficiary that invoked the provisions of the living will. And it was the wife/beneficiary that ordered the body cremated before the ADA could ask a forensic autopsy. And the wife has training and experience in head injuries and the after-effects of head trauma that do not immediately show...like swelling of the brain. The ADA thinks the wife allowed her husband to die to avoid a messy divorce/custody dispute, and to collect his life insurance. That's not all the detective and prosecutor tell you. The police were alerted by the wife's *boyfriend* who suspects the wife did all of this to help him out of a jam where he was about to lose his job because the husband found out about the affair. In fact, the boyfriend had just that very day said to the wife her husband was going to see he was fired and that made her very distraught as she and her boyfriend were very close.

Though you wanted to, you did not rely on what the wife told you on the telephone the previous night because you are not "accustomed" to relying on such hearsay in "serious" matters. Your instincts were good, but there is no way you could have known that the wife had a "motive" to want her husband dead. In the example with the EMT, he could also have been lying to you, but

based on your long experience, and the "serious" nature of the decision you had to make, it was a reasonable chance to take and one you had taken many times before. In the example with the wife, a fellow professional with training and experience, but with whom you had no history, you were not "accustomed" to relying on what she told you in the course of making a decision of a "serious" nature. And it turns out you were right in more ways than you could possibly have known. In the situation with the wife, while everything *on the surface* pointed to the likelihood that her hearsay was reliable, unconfirmed hearsay from not-known-to-be-reliable sources was information you and other medical professionals do not routinely rely upon. Digging below the surface, you now know you made the right call. But you only learned that additional information *after* trained legal investigators uncovered it for you. Much like learning information on motives to lie I presented at the hearing on July 10th .

By now, my serious objections to how I have been treated in this process are obvious. Temple could easily have brought before you the people who actually complained about me including Dua, Brown, and Acevedo. They could have brought in disinterested people to augment what these people supposedly claim. They could have looked for eyewitnesses from these various events, which, incidentally in Dua's case, I had no difficulty finding in a matter of *days*. They could have brought the patient who Acevedo said complained about me in the draping incident. For that matter, I could have found that patient myself had Temple not locked me out of my computer, and you might have heard what the patient or the patient's friend in attendance actually

thought. The list of things Temple did NOT do is extensive. Though they ask you to trust their sources sight unseen. Statements unverified, and in the case of Dr. Dua, no evidence at all adopting facts from an email authored (by somebody) 4 to 6 YEARS after the fact, in the face of significant evidence that she actively refuses to cooperate on the telephone or in person giving a statement, even affirming she sent an email, while acknowledging she received a written invitation to appear at the request of my lawyer, and flat-out *intentionally* refusing to come. If this case ever reaches a courtroom, Dr. Dua, Dr. Brown, Dr. Acevedo, et al. will not be able to simply refuse to be deposed and cross-examined at trial. Why not? Because in-person questioning under oath is where truth is determined. But in THIS process, none of my accusers came in person, none were under oath, none cross-examined in front of you so you could judge for yourselves their truthfulness.

The fear of hearsay and false testimony damaging people is as old as civilization itself. It is so important to orderly society that it is enshrined in the Ten Commandments! How do you test "bearing false witness?" *By hearing from the witness!* Watching and listening to them answer questions, and maybe asking questions yourselves. Could you ask questions of my accusers on July 10th? No. You were left with Temple's investigators' interpretations of what they "thought" such accusers "felt." (e.g. p. 57 lines 4-10, where Dr. Cowell told you what Dr. Cruz "felt" with no basis for how Dr. Cowell could possibly know how someone "feels" without that person telling him so.) Or just plain speculation: "I *think*, he felt extremely...uncomfortable ..." (Dr. Tedaldi

p.85 Line 21-23). Are you "accustomed" to using such knowledge gathering methods in "serious" matters in your own lives? Does *your* bank grant you a loan based on what *you* tell the bank the appraiser told *you* was the value of your home? Or does the bank expect to hear from the appraiser directly? I can understand Temple not wanting me or my lawyers to cross question my accusers. After all, I think they are liars who have conspired to ruin me because they nursed grudges. I wanted to fire Dua's special friend, Dr. Maitin, an effort that conveniently is happening just as Dua's email about alleged misconduct from 4 to 6 years before gets to Temple! How fortuitous for Dr. Maitin who would have been the one out instead of me. Is he just a lucky guy? (At least the "boyfriend" in our example above is the one who called police on the "wife." Here we have nothing from Maitin to exonerate him from involvement). Temple also took away from YOU the opportunity to question my accusers. I testified under oath and answered your questions, as did my witnesses testifying to their firsthand knowledge. No accuser of mine did so: persons from whom you could have learned specifics without Temple's investigators having to guess, or speculate, as to their meaning while ignoring their motivations.

There is little sense in me going over Temple's witnesses presented against me since neither of them testified to anything they did not hear for someone else, and in many cases to what they heard from someone else who

told someone else, etc. Instead, I will focus on my defense with some detailed attention paid to Drs. Dua, Acevedo, and Brown.³

I will note at the outset that nearly all, if not all, of the evidence I presented was *unrebutted*. Temple presented no evidence bearing on the credibility of their own hearsay witnesses, those hearsay witnesses' motives to want to ruin my career, nor evidence that Temple made any effort whatsoever to uncover the very same witnesses I did that contradicted Temple's case. On numerous occasions, Temple's investigators told the panel of the extraordinary lengths they went to in order to be thorough and develop corroborating evidence. (e.g. p.84 line 18-22 by Dr. Tetaldi "--if there was a witnessed event, then we may bring in some of the other people who were there just to either corroborate or refute what was there."). As we will see, their actions bore little resemblance to what they said they did, with zero effort to obtain independent evidence, or find disinterested eyewitnesses, and extensive effort to make doing so difficult for me.

Including myself, I presented 10 witnesses. One witness for my character only, one witness by written testimony (Dr. Mullan) who could not leave his clinical responsibilities in Pensacola Florida, and 8 fact witnesses. As

³ That I focus here on Dua, Brown, Acevedo and Maitin acting through Dua, is not to suggest that I agree with the lesser hearsay accusations that were never corroborated. Passing references to somebody says so and so agrees. Temple did not present even hearsay to corroborate the hearsay when I had the identity of people to check with. Whatever anyone said was taken by Temple at face-value with precisely zero effort to ascertain if what was said was true, or motivated by malice, bias, or error.

the record shows my lawyers had another 9 fact witnesses "on call," but the panel indicated that since these witnesses would further discredit the thoroughness of Temple's investigation regarding the same people: Dua, Acevedo, Maitin, and Brown, their testimony was not needed and the panel asked Mr. Castor to request Mr. Rogers (his partner) to tell those witnesses they would not be needed.⁴ (See P.176, Lines 1-11)

I had dozens of witnesses willing to testify as to my good character and reputation, which the panel recognized at pages 115-116 by agreeing that my reputation was exemplary: "By Dr. Queenan (without objection from the panel or Temple): "...we'll just accept that as truth..." My lawyer said one would suffice after that comment from Dr. Queenan. I understand the purpose of so-called character and reputation evidence is that courts and other judicial or quasi-judicial tribunals recognize that persons of good character and high reputation may be *presumed* to act in accordance with that good character and reputation, and that character evidence *alone* may be sufficient to find in favor of an accused by the simple fact that people are presumed not to act in

⁴ Not being a lawyer myself, I do not understand how every witness that discredited Dua, Maitin, Acevedo, Brown, and the rest, would not be helpful to the panel's determination. Temple relied upon "multiple instances of complaint" as somehow corroborating the truth of one another. So, I thought the more instances showing Maitin's animosity toward me, Dua, Acevedo, and Brown's poor character as to truthfulness, honesty, ability, and integrity, from people of different years and with different levels of interaction with me would be more persuasive to the panel that these hearsay witnesses were untrustworthy. Unless, of course, the panel had already decided that information supposedly from Dua, Acevedo and Brown is not to be believed, in which case I understand the panel's decision not to hear more evidence disproving Temple's evidence.

opposite to his or her known good character and reputation. Something my lawyers referred to as “black letter law.” In the midst of this very stressful and contested adversarial process, I very much appreciate the panel's swift finding that my nearly 30 years' of unblemished record and standing in the medical community has granted me the presumption that goes with an exemplary character and reputation after hearing from only one witness. Thank you.

The one character witness I called, before the panel found further character testimony was unnecessary, was Dr. Gilbert D'Alonzo (p.109 et seq), a high-level faculty member of sterling credentials, and a former president of the very body that was responsible for disciplining doctors for alleged bad behavior. In addition to testifying to my reputation and character, Dr. D'Alonzo testified I treated "two" of his wives, as well as his daughter with excellent results and nothing whatever to complain about. (p. 112). Dr. D'Alonzo further testified that in the 2 or 3 cases serious cases of the 4 to 6 cases where he was involved (like this panel currently is) with disciplining doctors, there was never a time when the alleged conduct rose to the level of dismissal as Temple is pushing for against me. No doubt, Dr. Cowell for Temple would counter that we don't know the regulations, procedures, guidelines, and by-laws from 8 years ago (2010) as applied by Dr. D'Alonzo and his colleagues are the same ones being applied now. And Dr. Cowell would be right about that. But just as Dr. Cowell essentially guessed (e.g. p.50 lines 10-20) the written materials were substantially the same 4 to 6 years ago which would have to be applied to the Dua incident, were similar the ones provided me in effect now, despite the

multiple amended dates noting changes, I suggest Dr. D'Alonzo's testimony shows how unusual it is for this complaint against me to have reached the level where dismissal is recommended. I suggest it is fair to conclude from what Dr. Cowell says on page 50, he really doesn't know what was amended and what was not. Whether it was substantial or not. This is not to suggest that Dr. Cowell *should* know these revisions over the many dates they were revised. Certainly not. I point this out to show that Temple's "prosecutor" in this case did not apply the correct "law" in effect at the time, not for a nefarious reason, but because in this proceeding that could result in the death of my career, the very procedures and standards of conduct to employ were not known even by Temple's lead prosecutor who was content to assume everything from 4 to 6 years ago must have been the same as it is today, because nothing in the realm of workplace interaction between men and women has changed in that time, as is well known...

After noting that in his tenure as the person helping decide on discipline for doctors (whether the standards from 8 years ago were the same then as now), Dr. D'Alonzo finished with this: "I think Dr. Weinik has immense value at our institution at the Temple Hospital as well as our medical school. He is the go-to person to send patients to that have musculoskeletal complaints. He does incredible examinations, comes up with the results that are necessary and the treatment plans that are necessary. And I have known no one in the PM&R Department that meets his level of care and I have referred a lot of people to different doctors in that department. That's not to say that those

doctors are bad or don't practice at a good level. Dr. Weinik practices at a much higher level. He's an incredibly valuable individual at our hospital."

(p.113-114)

Dr. Cowell: "No questions." (p.114)

Dr. D'Alonzo's assessment of my character, reputation, integrity, and ability was not questioned by Temple or by the panel. (p.114) Yet, Temple asks on the strength of the supposed evidence of Drs. Dua, Acevedo, and Brown to weigh Dr. D'Alonzo's un rebutted testimony concerning me, and my value to the Hospital and medical community, against information attributed to these three, ignore Dr. D'Alonzo's assessment, and throw me out of the University.

So why should you disbelieve the purported accounts of Dua, Brown, and Acevedo, and those working with them? Let's take surely the most serious of the allegations, the one attributed to Dr. Dua. Those allegations are contained in an email which Temple introduced into evidence. Dr. Cowell says in reference to the Dua email used at the hearing: "--this is the complete submission that she provided us" (p.71 Line 11-12). But this statement was untrue. The email provided to Temple 6 months before the hearing had Dua's name on it. But Temple chose to remove the name and not provide it to me until a few days prior to the hearing. Dr. Cowell's excuse was that I did not ask for the name, and that he would have given it *if* I had asked. (p.71 line 15-20).

Except there is no provision in the by-laws or regulations provided to me from Temple as applying to this hearing for "discovery" of a redacted name, so how was I supposed to *know* to ask? Really? Why would Temple choose not to provide me with the name? So I could not investigate it, especially when I later learned that it purported to describe an event from 4 to 6 years ago! Dr. Cowell later testified/argued that he did *not* first give me something handwritten about the email, I said that he did. A point we may never get to the bottom of. But of greater significance was that the email with a printed date of January 16, 2018 given to me as I prepared my defense *had the name of the sender missing*. I was not told of the identity of Dr. Dua until mere *days* before the hearing. The email is unsigned. Temple produced no evidence that Dr. Dua wrote it. Temple produced no evidence that Dr. Dua adopted the contents of the email or was even shown it. Temple produced no evidence that Dr. Dua ever saw the email after it come into Temple's possession. Temple admits that Dr. Dua refused to be interviewed over the telephone. Temple admits that it knew where Dr. Dua worked and that no one from Temple went to interview her. In short, Temple produced no evidence of *any kind* that Dr. Dua was the author of that email.

What did Temple produce on the authenticity of the Dua email? Here is the entirety of how Temple "knows" the Dua email is authentic: At page 70 and 71, Dr. Cowell *said*, that Mr. Wright *said*, an *unnamed* person on the telephone who *might* be a lawyer, but not *acting* as a lawyer, *said*, that Dr. Dua *said*...that Dua was afraid of retaliation from Dr. Weinik. I don't know what

the added effect of an "unnamed person on the telephone" has to the unreliability of this testimony, nor whether this unnamed person actually talked to Dua as opposed to it being her "feeling" that is what Dua thinks, but even without all that, this is, at least, *triple hearsay*. Is that the kind of evidence a reasonable person is accustomed to rely upon in making a serious decision under the by-laws?!? Seriously?

And yet, when I found out the identity of Dr. Dua as the person Temple claims wrote the email, I located her, had her served with a letter asking her to come and testify on July 10th, and obtained her affirmative statement that she received that letter inviting her to testify. Then, she did not appear. Let's be clear: this email accuses me of committing a *crime*! Moreover, it states *where* the crime took place, but *only* upon the addition of Dr. Dua's identity which was originally kept from me, does the email enable me to narrow down the date I committed this *crime* to sometime between 2012 and 2014, or *4 to 6 years ago*. So, I was accused of a *crime* by an *unnamed* person, and *without* even a date that crime *supposedly* took place!

Though Temple had 6 months, since January, to locate evidence backing up this claim I committed a sexual assault contained in the email, it failed to verify the accusation in any way. In the few days I had after Temple gave me Dua's name, I was able to deduce that the lecture in question must have occurred in 2012, 2013, or 2014 at PCOM at a seminar given only once a year in January. While I did not have time to learn if any video or audio recordings exist of those lectures, I did confirm the possibility that they might. I know

there was audio and video as well as a microphone to amplify my voice.

Temple did nothing to check with PCOM concerning the possibility of recordings. Temple did not search for eyewitnesses to the supposed crime. In fact, the email makes reference to other persons who might have been able to corroborate at least some of the email. There is a reference in the email bottom paragraph of the first page to a patient with information. I asked Dr. Cowell if Temple made any effort to identify that patient. Answer: "no, I did not." (p.75 line 20). Top of page two of the email makes reference to "a male resident." I asked Dr. Cowell if he made any effort to identify that male resident? "No, I did not." (p.76 line 4) Same page in the email makes reference to "my sister" and "another resident." I asked Dr. Cowell the same question: did you try to identify these people. "No, I did not." (p. 76 line 10). The patient, the two residents, the sister -- all could have been interviewed to back up what is in the "Dua" email, but they were not sought out. Dr. Queenan quite naturally inquired about efforts Temple made to identify persons connected to this alleged incident, but Dr. Cowell says it was so long ago: "It would have probably been difficult, if not impossible, to track down particularly the fact that Dr. Dua did not submit personal testimony to be able to investigate who she was referring to." (p. 77 lines 5-11). This response to Dr. Queenan's question is especially troublesome. Dr. Queenan immediately understood the relevance that Temple did not interview the two residents, the patient, and the sister and how doing so would have helped verify or not verify the accuracy of the "Dua" email. Dr. Cowell, candid as ever, said it happened a long time ago,

and that Dua did not cooperate. But of greater significance, Dr. Cowell uses the words "would have been" indicating that Temple *didn't even try*. No effort at all, despite that my professional life is on the line here. Well, I was able to track down people who were there to refute the "Dua" email. What I find really beyond belief is despite Dr. Tadaldi's assertions to the contrary that Temple tries to substantiate allegations, it did not do so here (despite having six months head-start on me to do so) when the allegation against me is a crime, and the purported victim of that crime absolutely refused to talk to Temple or give evidence to this panel. So, no matter how long it takes for me to clear my name on this, there will *always* be a file in Temple's possession that says I physically molested a resident despite no evidence that I did so, no effort by Temple to track down identifiable witnesses, and a legion of witnesses for me saying it never happened that I had to produce to prove my innocence when I should have been *presumed* innocent to begin with, as Temple University is still part of the United States.

I don't know how often Dr. Queenan has had to sit on these panels, but he (and the other panelists by design) knew nothing at all about my case before July 10th according to preliminary comments at the hearing. And yet, Dr. Queenan asked what should have been obvious to all those working to damn me: "Did we contact anybody that might corroborate...?" Not only does Dr. Cowell say "no," he says that Temple *didn't even try*. Later, at page 105, Dr. Queenan, still clearly bothered there was no effort at corroboration on the part of Temple's investigators, addressed Temple's *other* investigator-witness who,

like Dr. Cowell, was also testifying only to what other people told her. Dr. Queenan asks Dr. Tedaldi at page 105 about going back and asking other potential witnesses. He receives a similar answer from Dr. Tadaldi as he received from Dr. Cowell: Temple did not try to corroborate the “Dua” email: “...no, we didn’t go beyond that. [Referring to beyond simply *reading* the Dua email]. (p.106 line 23)

That left me to look for eye witnesses. I found them without much difficulty. You heard from a number of them. Here is some of what they said, and the citation to the record where they said it, about this so-called Dua event first reported to Temple in January 2018, but allegedly occurring 4 to 6 years ago:

Testimony by Dr. Conner:

Q: Were you at the lecture?

A: I was (p.129 lines 12-13)

Q: Do you recall Dr. Dua acting as a demonstration model?

A: I do. (p.130 lines 8-9)

Q: Do you recall anything out of the ordinary about that event where Dr. Dua acted as a model with me?

A: I do not.

Q: Do you recall me making any comments or jokes at Dr. Dua's expense making the class laugh?

A: I do not.

Q: Do you recall me touching her in a way you saw to be inappropriate?

A: No.

Q: Do you think you would have noticed if I humiliated one of your program mates at this lecture?

A: Yes

Q: Are you confident that I did not do that:

A: I am confident. (p. 130-132, lines 8-24,1-12)

Q: Did Temple investigators ever...contact you to discuss my case and what you might know about it?

A: No. (p.133, lines 7-10)

Q: (by Dr. Daly) Were any of the models that Dr. Weinik examined, were any male or were they all female?

A: Male as well.

Testimony by Dr. Arora

Q: Do you recall Dr. Dua acting as a demonstration model?

A: I do. (p. 163, Line 18-20)

Q: Do you recall anything out of the ordinary about the event where Dr. Dua acted as a model with me?

A: I do not.

Q: Do you recall me making comments or jokes that at Dr. Dua's expense and making the class laugh?

A: I do not.

Q: Do you recall me touching her in a way you saw to be inappropriate?

A: I do not. (p.164, Lines 5-15)

Q: Do you think you would have noticed if I humiliated one of your program mates at this lecture?

A: Yes

Q: Are you confident that I did not? (p.164, Lines 20-24)

A: Yes (p.165 line 1)

Q: Did Temple investigators ever...contact you to discuss my case and what you might know about it?

A: No. (p.166 lines 7-10)

Testimony of Dr. Aversa

Q: Are you aware of...[an] allegation [where] I acted inappropriately with Dr. Dua while she acted as a model?

A: Yes, I know the allegation.

Q: Were you at that lecture?

A: I was. (p. 198 lines 12-19, as amended for brevity)

Q: Can you describe the lecture...?

A: ...He's [Dr. Weinik] on stage, *an elevated stage and there's a camera that you can see straight down on the patient as well as you can see Dr. Weinik.*

There's multiple views. And during those examinations he would call up both male and females for examinations of the shoulder, knee, hip, whatever kind of

musculoskeletal examination... (p. 198-199 various lines as amended for brevity) (*Emphasis added*)

Q: Do you recall Dr. Dua acting as a demonstration model? (p.199, lin2 23-24)

A: Yes I do. (p.200, line 1)

Q: Do you recall anything out of the ordinary about the event where Dr. Dua acted as a model with me?)

A: I do not, no.

Q: Do you recall making comments or jokes at Dr. Dua's expense making the class laugh?

A: No, I do not.

Q: Do you recall me touching her in any way you thought to be inappropriate?

A: No, *for sure. (emphasis added)* (p. 200-201, lines 19-24;1-4)

Q: Do you think you would have noticed had I humiliated one of your fellow residents...at this lecture?

A: Of course. [The witness goes on to explain at length why it would have been "grossly obvious if anything inappropriate or out of character..." occurred by virtue of the way the room was set up, the cameras, and the lack of reaction by Dr. Dua.] (p. 201, lines 9-21)

Q: Are you confident that I did not [say/do anything inappropriate]?

A: Yeah. [The witness goes on to explain why this would not be possible for me to be inappropriate in that particular venue.] (p. 201 lines 4-10)

Q: Did Temple investigators ever ... contact you to discuss my case and what you might know about it?

A: No. (p.203, lines 15-18)

Q: (by Dr. Daly) Where [did you come from today to testify]?

A: Albuquerque.

Q: (by Dr. Daly) That's a long way.

A: Yeah...I cancelled my clinic and got here at 3:00 a.m. this morning.

Q (by Dr. Daly) That's a long way and a long flight. *Did you pay for that yourself to fly in and do all this? (emphasis added)*

A: Yes. I canceled my clinic. I'm a board certified physical medicine rehab doc and interventionalist. I cleared my schedule without objection to be here to defend a man that has worked hard for 30 years and had some odd allegations in recent classes... (p.207 lines 6-22)

Q: (by Dr. Daly) [Dr. Averna was among the last witnesses who had waited for hours with the others to testify] *Did you get a chance to talk with any folks in the [waiting] room about any of this? (Emphasis added)*

A: No. They just said it was a grilling is all they said. *No specifics... This isn't a normal thing.* (p. 208, lines 12-22, edited for brevity) *(Emphasis added)*

(Memo of Dr. Mullan introduced)

I summarized Dr. Mullan's memo at page 219 as follows:

“Dr. Mullan was at the physical examination [involving Dr. Dua] and he also testifies that he was a model and he also testifies that he did not see that I, Dr. Weinik, displayed any preference for female over male models.”⁵

[See memo of Dr. Mullan noting that he witnessed the event where Dr. Dua acted as a model for me and neither saw nor heard me be anything other than professional when Dr. Dua acted as his model.] Transcript, Exhibit 4.

I presented 4 eyewitnesses, with others in reserve that Mr. Rogers excused, to state that the Dr. Dua’s email version of events, or purporting to have come from Dr. Dua since no evidence of who authored the email was ever presented by Temple, concerning the lecture at PCOM is *completely false*. Until a few days prior to the hearing, I did not even know what event the email referred to. Once I learned, I was able to reconstruct what happened. I can produce more witnesses as well. I suggest there cannot be any other conclusion that the uncorroborated hearsay evidence attributed to, but never adopted by, Dr. Dua is utterly and totally false and could never rise to the level

⁵ The hearsay offered by Temple about me spending more time than was necessary with young female patients, or acting unprofessionally with them, was rebutted by virtually every witness who testified. Dr. Acevedo was the primary proponent of this particularly suggestively, malicious falsehood. I assert I have conclusively proven false that allegation and I ask the panel to consider that if Acevedo lied (or is mistaken) about that point so easily disproven, what else is he lying (or mistaken) about?

of evidence that a “responsible person” would be “accustomed to rely” upon in making a “serious” decision such as to remove me from my post. In fact, it is incredible to me that anyone at all, responsible or irresponsible, would rely on the so-called Dua email as truthful on anything given it has no corroborating evidence and is directly refuted by eyewitness testimony under oath.

You heard testimony about an unusually close relationship existing between Dr. Dua and Dr. Maitin. It was of course difficult not to make it sound as though the two were having a sexual liaison, and while that could at some point be a question to explore, that possibility is not what was significant about the testimony. The significance was twofold: first, Dua and Maitin were close friends, and Maitin blamed me for his being demoted and me taking his place as interim chair in his place. He was considered as a weak and poor leader as was testified to repeatedly by the residents. As humilisting as it undoubtedly was to him, when I failed to motivate Dr. Maitin to do his job as program director, I concluded he had to go for the good of the program. Dr. Maitin *knew* this and confided it in his close friend Dr. Dua. After Temple decided to take no action on Cora Brown’s allegations because Dr. Brown refused to make a formal complaint (p.28 line 14-18) and put that matter to bed, as the fall of 2017 turned into winter 2018, it became the perfect time for Dua to concoct a story from years ago accusing me of molesting her. Dua’s complaint had the effect of resurrecting the already ended Brown complaint as Brown suddenly decided to make her complaint “formal.” Safety in numbers right? Brown and Dua, both young women knowing Temple University, perhaps even more than

most institutions, is sensitive to sexual assault allegations, came together, or independently managed to get both their matters in front of Temple administrators at precisely the time when I was making a move to remove Maitin as program chair. The perfect play. Of course, as my accusers undoubtedly knew would happen, I am immediately *presumed* guilty, as the new culture of America demands with such allegations, and I get subjected to these proceedings with all the anxiety and expense that entails. The immediate benefit for my accusers is Dua's friend Maitin not only gets to stay as program director, if I get drummed out of Temple as you are being asked to do, my chairmanship opens up and maybe Maitin can get it back? Of course, Dua and Brown didn't count on me fighting back. They are not old enough or experienced enough to know what all of us know: a lifetime of building a good reputation is something worth defending. I daresay that any of the professionals in this proceeding from the panel, to the Temple investigators, to the lawyers, if falsely accused of these vile acts, would fight tooth and nail to salvage their reputations even if it meant exposing Dua, Brown, Acevedo and Maitin in less-than-flattering light. I never want the hospital viewed in a negative way, but these people have set in motion event that require me to expose them for what they are.

Please recall when judging whether to accept the hearsay testimony of Drs. Brown and Acevedo (Dua is in a class by herself, having falsely accused me of a crime which I am told is something called libel *per se*), the panel should only accept that hearsay if it is "the sort of evidence on which responsible

persons are accustomed to rely in the conduct of serious affairs." (By-Laws 8.4.6) Think about the examples of the EMT and the nurse/wife with a motive to want her husband dead. You relied on the EMT, but you would not rely on the nurse/wife with motive. Same victim, same injuries, same level of hearsay. One reliable one not, though what *seemed* reliable at the start, motive and character were the key to proving conclusively that the wife's hearsay was unreliable. Not only would her custody and financial worries have gone away, she would have saved her boyfriend's job which her husband had threatened. In the proceeding before you, one type (the reliable type) you are to credit, the other repudiate. Now, I'll apply that analysis to Drs. Brown and Acevedo.

First Dr. Brown. She writes a letter that is unsigned and undated accusing me of all sorts of nasty things. Temple attests that Dr. Brown orally adopted the letter as her own. But why is it Temple never has her sign it, or ever formally adopt it in writing? Not only is Brown never under oath, nor recorded electronically anyplace with her accusations, she never even signs her name to her letter. Or dates it, for that matter. Much discussion occurred at the July 10th hearing which centered seemingly on my effort to cast doubt on whether Brown actually wrote the letter. But in the room on that long Tuesday evening, only my lawyers and me knew the testimony that was to come later on about Cora Brown the legendary liar, unrepentant thief, and vindictive manipulator. The failure of Temple to get Brown to sign and date her letter, or have her testify was not to say Brown didn't author the letter, it was to show Temple was unaware of the type of person Brown was and made no effort to

find out. Had Temple done so, it would have been sure to dot every "i" with her, and cross every "t," since vindictive liars don't announce themselves as such, they must be found out through investigation. Recall the discussion about what Dr. Cruz had to say. Whether it corroborated Dr. Brown or not. Dr. Cowell said they did interview Dr. Cruz and that he didn't help one side or the other. One of the panelists even noted when he, the panelist, and a colleague are stopped in the hallway, he doesn't listen while his colleague converses with whomever stopped them if it does not concern him. The point Temple wants to draw attention away from, however, is this: either Dr. Cruz corroborated what Brown said happened or he did not. The "why" is unimportant. The fact is he did not corroborate Brown's story. Thus, Brown remains uncorroborated is the point. Dr. Cowall begins with the *speculation* of what Dr. Cruz *might* have been "feeling" or "thinking" (p. 57 lines 4-10). I had no reason to think Dr. Cruz was lying to investigators as apparently Dr. Cowell thought he was, because Dr. Cowell felt it necessary to come up with an excuse for Dr. Cruz's NOT verifying Brown's tale.

There was no evidence presented that Temple did anything at all to learn of the veracity of Cora Brown, the thief who stole from Temple and bragged about it, and whose peers and even supervisors avoided out of fear. Yes, fear of her well-known vindictive nature the testimony showed. Who did Temple approach to check out the type of person Cora Brown is? Certainly not her peers, one of whom testified as follows about Brown. It is, frankly, frightening that such a person is practicing medicine with a Temple certificate on her wall!

On example from the testimony concerning the type of individual Temple relies upon in Cora Brown, having done nothing at all to learn what type of person Cora Brown is:

(Testimony by Dr. Ilgonikov)

A: Cora Brown was *by far the most untrustworthy and vindictive and poorly ethical* physician that I have met at my time at Temple...I have had multiple conversations with other physicians, attendings, Dr. Maitin in particular, as well as most of my co-residents that would agree that she lacks quality of care and work ethic...*She openly bragged about taking the money*, signing up to go to [a] conference and then not going and keeping the money. She was *bragging* about that to people in my class. (p.181) (*Emphasis added*).

A: ...Cora Brown, I quickly learned that I would not be friendly or collegial with her. I tried to stay out of her way as I know most people did because *I know for a fact she's very vindictive*. (p.183, lines 20-24) (*Emphasis added*).

A: Cora Brown...*I would not trust a word that she says*. (p.184, line 6-7) (*Emphasis added*)

Q: (by Dr. Queenan) ...It was common knowledge [Brown] essentially stole money from Temple?

A: Amongst the residents. [Yes].

At pages 188-189, Dr. Ilgonikov, in response to the panel's questions relates specific instances of Brown's efforts to shirk her responsibilities, and even supervisors are afraid of her: "I have had conversations with Amber in the past where she's said...she's afraid that she will, you know, come after your job or something, you know, if something doesn't go her way." (p. 189 lines 16-20). Well, "things didn't go her way" when I disciplined Cora Brown about her dress and professionalism, and that she is now going after *my* job just as she has made others fear she would go after theirs'.

Did I get on Dr. Brown about her dress, her professionalism, her deportment? Absolutely, I did. But she has paid me back, hasn't she? Temple swallowed her tale hook, line and sinker. It frightens me that she might win in the short run: you might believe her. Dr. Ilgonikov looked you in the eye, answered your questions, stood for cross-examination all under oath. Is he the liar? Or was his testimony reliable? Did his words have the ring of truth about them? Do you, yourselves, have any colleague from your entire professional lives about whom you would testify in those terms, if it were not the absolute truth? Did Temple interview Dr. Ilgonikov about Dr. Brown? No. Is Dr. Brown's theft going to be investigated? It should be fairly easy to discern which conference she took money for and did attend. For that matter, is Dr. Dua going to be investigated for falsely accusing me of a crime, which, itself is a crime?

If you think a doctor who travelled with significant expense and inconvenience, not to mention the hassle of waiting hours to testify, lied to you about how dishonest Dr. Brown is, then I can call more witnesses that the panel asked me to excuse to further make the point. Dr. Brown is a liar, a thief, and manipulatively vindictive. A person to *fear* according to the testimony. Temple did not know this, and did nothing to find out before they offered her hearsay evidence up to you as gospel hoping you will believe her and ruin my career. Small wonder Brown waited for Dua's years-old complaint before she would actually "go formal" with her complaint. She need an accomplice so she, with all her credibility issues, would feel she had back up. She didn't, but she didn't know that.

But I ask you, with the perspective gained about Dr. Brown, the complete lack of corroboration, and nothing in writing certifying her letter as true, coupled with the remarkable coincidence that Brown and Dua's attack come in days apart, just as I am reorganizing the department and giving Maitin the boot, is Brown's hearsay evidence even remotely reliable? Is it still strong like the EMT's hearsay? Or now knowing Brown, is it like the wife with the motive to want her husband dead for money, custody and to keep her boyfriend from being fired on account of her husband? Maybe if Brown faced you and answered your questions under oath like my witnesses and I did, you might credit her. Then again, you might see her for what she is. Nevertheless, Temple did not call her. You did not see her. You have to judge her by the By-Laws' hearsay yardstick. She cannot be believed. In fact, the Board ought to

be told what you learned about before she potentially ruins someone else's life, whether a colleague or patient, creating liability to Temple.

Now we come to Dr. Acevedo. A man described in testimony is lazy and hard-headed. Residents tried to help him to no avail, even before medical issues, according to testimony, affected his ability to handle the rigors of the program which he admitted to a resident hoping to help him. Failed his boards, rubbed attendings and residents alike the wrong way, and of great significance for us, Temple presents to you as a reliable hearsay source. Temple shows you a fragment of a text which Temple wants you to conclude is a threat by me to Acevedo in connection with Acevedo's unannounced to us interview with Dr. Furman in York. Did Temple contact Dr. Furman to learn the circumstances under which he and I know each other? After all, Temple's witnesses pride themselves on their thoroughness, right? Dr. Tedaldi repeatedly explained that, didn't she? But, Temple's investigators did not uncover that Acevedo skipped his rounds with me that day without warning. Temple did not uncover that by concealing his York fellowship interview, Acevedo was unable to avail himself of my friendship with Dr. Furman, in advance, to smooth the way ("not smart" from my text fragment), and Temple failed to uncover that I did nothing at all to interfere with Acevedo getting that particular fellowship (see letter from Dr. Furman). But Acevedo did, in fact obtain a fellowship, didn't he? A fellowship Temple failed learn that I had helped him get (see letter from Dr. Naftulin). The Temple investigators learned none of these things before

accusing me on the strength of Dr. Acevedo's claims and wrongly interpreting the meaning of a text into something sinister.

But what outrageous conclusions, based on rumor and innuendo, DID Acevedo, Brown, others, and Temple's investigators reach from fragments of facts assembled into a picture unrecognizable as fact? That I am an overbearing supervisor weaponizing the granting or withholding of recommendations. Fueled by that, Acevedo and others went on the attack. We know for a fact (now) that I did not do anything to hurt Acevedo's fellowship chances in York, and that I advanced him with Dr. Naftulin. But Acevedo, did not know that when he signed on to help the seek and destroy mission against me. Bolstered in Temple's investigator's minds by Brown, and Dua helping Maitin, nothing was done to check out Acevedo's motive to want to destroy my career: his belief that I kept him from getting that fellowship in York.

Here is what Dr. Acevedo's peers said about his ability and character, and in direct testimony, under oath subject to cross-examination and panel scrutiny. Also, the direct rebuttal of the outrageous accusation that I spent more time with young, attractive women as opposed to other patients. Outlandish innuendo designed to create the fiction that I must be some kind of pervert: the modern day hemlock for a professional career. Again, these are first hand observations, not hearsay as exclusively offered by Temple:

Dr. Yu, a female resident who worked a long Holiday weekend seeing patients with me:

Q: Have you ever seen me engage in any conduct you thought was inappropriate with a patient?

A: No

Q: Have you ever seen anything that made you think I spend more time with young female patients than I do with other patients?

A: No (p.118)

Q: Did anyone from Temple ever interview you about my behavior?

A: No. (p.119)

Q: (by Dr. Lin) – have you heard of any other comments or attitudes from your co-residents about Dr. Weinik

A: I have not, no. (p.121)

Dr. Li a female resident who worked with me seeing patients *daily* for a month and part of the program with me for 2 years.

Page 123 covers her testimony concerning the same observations as Dr. Yu. Both women failing to corroborate Dr. Acevedo's statement that I spend more time with young female patients than with other patients. She then goes on to testify concerning how I extricated her from a VIP patient (son of a current Board member) who was "hitting on her" at pages 124 and 125.

Dr. Conner:

Q: ...do you agree with [Dr. Acevedo's] accusations concerning the amount of time I spend with young, female patients?

A: Absolutely not...there was no distinction between sex, race, nothing like that [on how much time I spent with patients]. (p.128 lines 13-24 edited for brevity)

Q: Did Temple investigators ever...contact you to discuss my case and what you might know about it?

A: No (p.133, lines 7-10)

Dr. Williams:

Q: During your time working with me did you ever see any indication that I spent more time with young female patients as opposed to other patients?

A: No, sir.

Q: Do you think you had enough interactions with me to know if I spent more time with young female patients than other patients?

A: Without a doubt, yes. (p.142, lines 10-18)

[After a lengthy explanation concerning how Dr. Williams is sure I don't spend more time with young, female patients than other patients at pages 142-143, the following question and answer ensues:]

Q: Based on your firsthand knowledge [of Acevedo's accusation that I spend more time with young, female patients] is that accusation ridiculous?

A: Firsthand knowledge *I would say that accusation is unwarranted, unfounded, and ridiculous.* (p.143 lines 12-16) (*Emphasis added*)

Dr. Cowell asked Dr. Williams if he ever heard complaints from the residents in the years were worked together that I engaged in sexual innuendos at pages 155-156. Dr. Williams' response: "No, not a single complaint that I remember or ever having been involved with."

Dr. Arora:

Q: Dr. Acevedo told [Temple investigators an] accusation concerning the amount of time I spent with young female patients?

A: No, I do not [agree]. I feel you spend equal time with all patients. (p.162, lines 13-18). On the following page, Dr. Arora stated that if Acevedo says it is a fact that I spend more time with young female patients than other patients, Acevedo is telling a "lie." (p. 162, line 5)

Dr. Ilgonikov:

A: "...you gave the patients the time that they needed." (p.177, line 23-24)

Q: Do you agree with any claim that I only used female residents as models?

A: Absolutely not.

Q: Were you yourself such a model? (Dr. Ilgonikov is a man.)

A: I have, yeah, been your model on multiple occasions. (p.178, lines 1-6)

Q: So if Dr. Acevedo insists that I only used female models, is he lying about that?

A: That is absolutely not true. (p.178, lines 11-13)

Q: What sort of resident was Dr. Acevedo?

A: I mean Dr. Acevedo had trouble as a resident for most of his residency. He was delinquent and late...and I heard he only got worse from one of his...chiefs...

On page 180, Dr. Ilgonikov explained how Dr. Acevedo became angry about Acevedo's belief that I damaged his chances for a fellowship in York, and Dr. Ilgonikov goes on to testify: "That within a short period of time of him not getting that fellowship that some of these complaints came about." (p.180 lines11-13)

On page 183, Dr. Ilgonikov testifies that Dr. Acevedo had a medical issue and told Dr. Ilgonikov that he was "afraid" to admit that he was mentally 100% to come back to the program. Acevedo "confided" in Dr. Ilgonikov who urged him to be "honest" about his "situation." I have no way of knowing id Dr. Acevedo did, in fact, "come clean" with the program director concerning his fear that he was not mentally fully healed, but Temple records should confirm whether he did or did not.

Dr. Aversa

On page 196, Dr. Aversa directly disputes Dr. Acevedo's claim that I spend more time with young, female patients than necessary beginning at line 6. Then the following exchange occurs:

Q: If Dr. Acevedo insists that this is fact as opposed to his opinion, that I took longer with young female patients, based on your experience would that be the truth or a lie?

A: Well, *knowing him as a problem resident, that would be a lie for sure.*

(p.197, lines 1-5) (*Emphasis added*)

Dr. Alverna then testifies at length on pages 197 and 198 concerning deficiencies in Dr. Acevedo as a resident, including:

- Often he was a major topic of concern among supervisors.
- Lacking professionalism.
- Lateness
- Getting suspended for failing to document his work through dictation.
- Residents saying Acevedo *does not practice safe procedures in caring for patients.*
- Bad attitude with superiors especially with attending doctors.
- "Rubbing people the wrong way."
- Not a team player in a team environment.
- Needing instruction on how go about being an "adult."
- Failing his "board" exams.
- He should have been dismissed from the program for his multiple failures.

Q: Do you suggest that anything coming from his [Dr. Acevedo's] behavior would suggest [he is] less than being credible?

A: Oh, sure. Even as chief resident overseeing him he should have been fired on multiple occasions for his behavior, his unprofessionalism. We had to

give him extra calls, I mean he had a lot of extra chances and probably at any other institution [but Temple] he would have been fired. (p.204 lines 15-24)

Q: *Who was the chair during the time frame when you think he [Acevedo] should have been fired?*

A: *Dr. Maitin.* (p.205 lines 1-3)

Later, under questioning from the panel, Dr. Averna returned to the multiple problems with Acevedo that warranted termination at page 215 involving:

- Suspension from privileges after failing to document his cases by dictation on multiple occasions.

- Acevedo being late so often to lectures, the chief residents had to set up a “penalty system” requiring more “on calls” for Acevedo as a chronic violator.

- Dr. Van Wine and at least two other attending doctors stating they would rather not work with Acevedo based on his demonstrated past pattern of unprofessionalism and general abrasiveness.

Then this from Dr. Alverna at page 216, lines 4-8: “You know, I knew he was struggling, having a hard time. So I was like hey, man, you got to get your act together, you have to play nice in the sandbox with the nurses, residents, physicians.” Dr. Daly: “Did that help?” Dr. Alverna: “I think it did but he’s, I don’t want to say hard-headed but he’s very stubborn. So I think it helped for

a while and then I could see him kind of distancing himself from us. But then he came back once he failed his boards and asked for my advice what to do...”

I respectfully suggest to this panel that, similar to Cora Brown, the thief of whom her peers are scared, and think vindictive, and the elusive, uncorroborated, unavailable, Dr. Dua, Dr. Acevedo was angry, stressed, feeling overworked. Multiple witnesses hotly dispute his insistence that I spend more time with young female patients than needed. As with Brown and Dua and the wife in our example, he is a very troublesome source with no credibility at all. But, perhaps not manipulative and outright malicious trying to either help a close friend and under his spell like Dua was for Maitin, or like Cora Brown described in testimony as untrustworthy, a thief and vindictive making people fear for their jobs. Acevedo might have been simply a young doctor, under enormous pressure to perform, but without the personal skills and coping ability he needed to progress well. The kind of young doctor others wanted to mentor, “take under a wing,” help during a rough patch. Immature, but fundamentally a “good egg.” Had his program chair not been asleep at the switch brooding over how to best retaliate against me with the help of his friend Dua, Dr. Maitin might have seen Acevedo was worth saving.

That is, until Acevedo went too far. Much, much too far. Jumping onto the Maitin/Dua/Brown “Weinik is a pervert. A dirty old man” bandwagon. There is almost nothing worse in the world we live in than to be so branded. It is life changing and maybe life (speaking of career) ending. And there is nothing so easy in this world as to set it in motion, with Temple so willing to

believe it. Obviously, my life will never be the same again, even if I am fully exonerated and reinstated, as I hope will happen. The anxiety and stress have been beyond belief. Not to mention the expense to hire a legal team. Because this is it. This is the ballgame. If I fail here, I'm looking at years of litigation and all the added stress and expense that goes with it, during which time I will not be practicing medicine. Who hires "the pervert" regardless that I have done nothing to warrant this treatment from a University to which I remain loyal, and for which I thank God for giving me the chance (formerly) on a daily basis to use the skills He entrusted to me for healing. Maybe my accusers thought they'd give me a good scare to pay me back for imagined slights, and had no idea it would go this far. If I was a betting man, that is where I would lay my money. My life is Temple medicine, helping people who need help. But Acevedo crossed the line from overwrought resident, to false accuser on a matter of dealing with a patient who trusted me with her care.

All of which brings me to the episode with my injecting that patient in her lower back to alleviate pain and suffering. An incident that Acevedo accuses me of exposing a patient's buttocks, evidently, for my own sexual gratification (I can't believe I am actually writing something so absurd.) Acevedo says I did this in a room full of people including a loved one of the patient, students learning the procedure, and an experienced assistant of sterling reputation, Dr. Williams. Did Temple produce the patient, or even an

anonymous statement from the patient ⁶ No. The patient's "significant other?" No. Did Temple give me access to my patient records to try and figure out who that patient is so I could ask her? No. It is intimidated by my Temple investigative accusers that this particular patient refused to be further treated by me. But every piece of testimony offered by Temple on this point begins with speculation like "I heard...", "It is my understanding...", "I think I heard..." Not even hearsay evidence from the patient herself! Nothing. But Temple wants this panel to believe that this patient was so upset, she would not return to treat with me based on no evidence at all. I hope I have already demonstrated that Acevedo's has no credibility, but Temple does not even offer how he could possibly know the patient refused to be seen by me again. However, an esteemed graduate of our program and a faculty member, the most experienced doctor in the room apart from me, Dr. Williams, *was* there. This is non-hearsay, firsthand eyewitness testimony under oath. Here is what he said about the "draping" procedure:"

Page 144, line 16: Sees the whole procedure from beginning to end.

Page 145 -Watched the preparation and described in detail how I went about it using the procedures Dr. Williams, himself, said he has done hundreds of times, that he learned from me. See lines 17-23.

⁶ I'm told that I cannot have access to the identity of this patient absent court process, but what I cannot understand is why Temple investigators with their self-proclaimed efforts to be "fair," would not seek out this patient on their own to get even a hearsay account from her or her partner?

Page 145 lines 1-5

Q: did I uncover any more of the patient's buttocks that it was necessary to perform the procedure?

A: I recall again nothing out of the appropriate and it was a normal draping and procedure.

Lines 6-13 Dr. Willimas testifies he saw nothing that led him to conclude the patient was unduly humiliated or embarrassed and, again, a whole room of people were there to watch and learn, or comfort the patient.

Dr. Williams spends several pages of testimony (pp. 146-148) devoted to explaining to persons who may read the transcript the reasons for needing to sterilize and drape an area much larger than the target for the needle to account for differences in the anatomies of different people. I asked him directly at line 14, page 147 whether I uncovered the proper area of skin to correctly sterilize the area around the injection? A: "I believe that you did."

Then, I asked Dr. Williams the critical question and he responds on page 148 lines 5-15:

Q: Dr. Williams, this is a big point in the case. Are you absolutely sure I properly uncovered this patient, sterilized the correct area and draped her in a professional manner consistent with the way you were also taught to perform the procedure?

A: Yes. I believe I have enough experience and moral aptitude if there were something inappropriate I would have said something otherwise and there was nothing out of the ordinary.

The evidence presented shows that Dr. Acevedo is, or at least was, a troubled, immature, resident doctor hanging on by his fingernails. He thought he might get a fellowship and blamed me, mistakenly, when he did not get that particular fellowship. Further his observations are suspect, and if not outright lies, grossly in error about how I allocate my time with patients. Then he went way off base: he falsely accused me of unprofessionalism with a real patient. And he did that solely to hurt me. He might have gotten away with it, but for Dr. Williams remembering and being willing to say so under oath. Not just to Temple investigators asleep or awake, taking accurate notes or not, but under oath subject to penalties of perjury. That is how we test "bearing false witness" in this country. Dua, Brown Acevedo...they didn't do that. Dr, Williams and me, and my other witnesses did. That's the difference. Between my case and theirs'. Would you make a decision on an important matter based on Dr. Williams' medical observations? I bet you would. How about the others, those accusing me? I bet you wouldn't.

Did I get on Dr. Acevedo about blowing off his call on his first day with me, without warning, at a time when we had reason to believe our residents were overstressed even to the point of suicide? Sure. Was I upset about his lack of professionalism? Absolutely, I was. But he has paid me back, hasn't he? Like Brown, Temple swallowed his tale too. And, like Brown, he might win in the short run: you might believe him. Drs. Williams and the others looked you in the eye, answered your questions, stood for cross-examination all under oath. Are they the liars? Or is their testimony reliable? If you think these

doctors travelled enduring the inconvenience to testify, lied to you about the kind of man Dr. Acevedo was (and hopefully is not still), then as with Brown I can call more of the witnesses the panel asked Mr. Rogers to excuse to further make the point. Dr. Acevedo is at best mistaken that I tried to hurt his fellowship chances, and at worst maliciously joined Brown and Dua to "get" me. Temple, of course, did not know this, but did nothing to find out before they offered his (and their) hearsay evidence up to you hoping you will believe him and them and grant their wish that you end my career. But I ask you, could it be that when my accusers saw I was not getting just looked at, or admonished, but that a 30-year career to date, not to mention what I might still have to contribute to medicine, was at risk of being taken from me, these accusers are not at the hearing to look me in in the eye? I literally gave Dua an invitation. No show. More importantly, they were not here to look *you* in your eyes. Is Acevedo's hearsay evidence reliable? Brown, Dua's? Other, mentioned in passing? Is this the kind of testimony that is still like the EMT's hearsay from the example at the beginning of this argument? Or, now knowing about these accusers who did not appear, is the testimony much more like the wife with the motive to want her husband dead to save he boyfriend's job, keep her children and become a millionaire? Motive to lie counts toward credibility and reliability. You have to judge all of Temple's evidence by the By-Laws' hearsay yardstick. By that standard, none of it is such that any of you as "responsible persons would be accustomed to rely [on it] in the conduct of serious affairs." (8.4.6). That is what Temple's by-laws mandate for you in

order to credit Temple's evidence against me and impose the equal of the death penalty on my career.

You now have the background of Temple's witnesses, and their motives, coming from direct, non-hearsay, subject to cross-examination, and under oath witnesses. Weighed against not knowing my accuser's motives, their character, not being under oath, not subject to cross-examination, not allowing you to even see them. I suggest to this panel that not only has Temple failed to show my conduct warrants any adverse action, the hearing showed that the weight of the evidence affirmatively comes crashing down in my favor. I have been attacked, my reputation and career have been placed in question. I had, and continue to have, to fight for my honor, my integrity, and to be able to pursue my calling as a doctor, a healer of people. And I will not stop until my last breath. What Temple's investigators have done and are doing to me is wrong. I look to you, my peers and colleagues, to look rationally at this evidence, consider my character and reputation over 30 years, and as attested to by Dr. D'Alonzo and agreed to by the panel, as exemplary. Compare that against my accusers, their characters and reputations, and what evidence that was not developed that by right and fairness should have been. I am a good and professional doctor. That is all I ever wanted to be. Forces beyond my control are trying to take that from me. You stand as my shield, for I have done no wrong.

Thank you.

Michael Weinik, DO

**MEDICAL STAFF HEARING COMMITTEE REPORT TO THE MEDICAL
STAFF EXECUTIVE COMMITTEE REGARDING THE MEDICAL STAFF
TERMINATION OF DR. MICHAEL WEINIK**

The Medical Staff Hearing Committee consisting of Drs. John Daly (chair), Joseph Queenan and Karen Lin met on the afternoon and evening of July 10, 2018. Present were Mr. Paul Wright, Drs. Cowell and Tedaldi for the Medical Staff and Mr. Castor and Mr. Rogers along with Dr. Michael Weinik for the defense. A stenographer recorded the proceedings.

The Hearing Committee heard multiple witnesses over a period of approximately six hours and had the opportunity themselves to question witnesses during the proceeding. The Hearing Committee received and reviewed multiple documents from the Medical Staff Executive Committee, Dr. Cowell, Dr. Weinik and his attorneys, and written recording of the proceeding. The Committee met subsequently on two occasions to review and discuss the proceedings and the documents that were provided.

The decision of two members of the Committee is to recommend to the Medical Staff Executive Committee that Dr. Weinik have his medical staff privileges modified so that he is not performing direct patient care nor directly overseeing/instructing individual residents. One member of the Committee decided to recommend to the Medical Staff Executive Committee that Dr. Weinik be suspended or be placed on a similar modification as described above. The duration of such suspension or modification was not decided by the Hearing Committee. As part of a remedial action plan, the Committee recommended strongly that Dr. Weinik undergo counseling, behavioral and sexual harassment training, independent of individuals from Temple University Hospital, during the time that his privileges are modified.

The decision was reached because the sexual harassment written and verbal complaints of the female former PM&R resident from 2016, 2017 and 2018 could not be completely substantiated since she was not present at the hearing and witnesses did not corroborate her complaints. Complaints from Drs. Kinback, Brown, Vyas and Acevedo and Ms. Dzikowski regarding Dr. Weinik's behavior towards female patients and residents, themselves included, were also not substantiated by witnesses brought to the hearing. However, the Hearing Committee took into account the due diligence of Drs. Cowell and Tedaldi along with Ms. Coull and Dr. Wiggers who directly interviewed the complainants and sought to verify the behavior charges that were brought against Dr. Weinik. From all information provided to the Hearing Committee, there appeared to be a pattern of Dr. Weinik's behavior that is unacceptable for a member of the Temple University Hospital staff.

The initial recommendation of the Medical Staff Executive Committee (MSEC) was for Dr. Weinik to undergo professional coaching by Ms. Saccomandi; however, it appeared that Dr. Weinik did not fully participate in this effort until near the end of the coaching period. While he claimed illness during this time, there was no corroboration of this to the Committee. Thus, it is unclear to the Committee that Dr. Weinik tried diligently to adhere to the initial recommendations of the MSEC.

Thus, the Committee voted unanimously that Dr. Weinik participate diligently in his own behavioral and sexual harassment therapy and demonstrate satisfactory completion of a course of such therapy. Should he be allowed to return to the medical staff or have his medical privileges fully restored, he would be required to be monitored by senior leadership at the medical center as part of a continued remedial action plan.



VINCENT COWELL, MD
Chair, Medical Staff Executive Committee
Professor, Clinical Anesthesiology
Lewis Katz School of Medicine at Temple University

August 27, 2018

Dear Dr. DiSesa:

At the specially called Medical Staff Executive Committee (MSEC) meeting today, the MSEC reviewed and considered the recommendation of the Hearing Panel regarding Dr. Weinik's status on the Medical Staff. Given my role as an investigator of the allegations against Dr. Weinik and my role as the advocate for the Medical Staff at Dr. Weinik's July 10, 2018 hearing, I recused myself from participating in today's MSEC meeting. Dr. McNamara, the immediate past Chair of the MSEC, presided over the meeting in my stead.

The MSEC disagreed with the Hearing Panel's recommendations and by majority vote decided to reaffirm its earlier recommendation for termination of Dr. Weinik's Medical Staff membership. The MSEC seized on the Hearing Panel's finding that "there appeared to be a pattern of Dr. Weinik's behavior that is unacceptable for a member of the Temple University Hospital staff." Therefore, the committee agreed with the Hearing Panel's finding about Dr. Weinik's behavior, but disagreed about the remedy for that behavior.

Pursuant to the Medical Staff Bylaws, Dr. Weinik has twenty one (21) days to request an appellate review of this recommendation by the Board. If he chooses not to request appellate review, the MSEC's recommendation will be submitted to the Board for its consideration after the twenty one day period has elapsed.

Respectfully,

Vincent Cowell, M.D.
Medical Staff Executive Committee Chair

cc: Michael Weinik, D.O.
Bruce Castor, Esquire
Paul B. Wright, Esquire"

TEMPLE UNIVERSITY HOSPITAL
3509 N. Broad Street, Philadelphia, PA 19140
TempleHealth.org 800-TEMPLE-MED